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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

COASTAL HEARING ROOM

SACRAMENTO, CALIFORNIA

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chairperson

Ms. Cheryl Peace

Ms. Pat Wiggins

ALSO PRESENT

Ms. Margo Brown, Board Chair

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Elliott Block, Acting Chief Counsel

Mr. Howard Levenson, Deputy Director

Mr. Gabe Aboushanab, Supervisor, LEA Program Assistance & Evaluation Section

Ms. Sharon Anderson, Manager, LEA Support Services Branch

Mr. Wes Minderman, Supervisor, Solid Waste Cleanup Programs Section

Ms. Carla Repucci

Mr. Scott Walker, Manager, Remediation, Closure, & Technical Services Branch

ALSO PRESENT

Mr. Patrick Sullivan, SCS Engineers

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everyone.

3 Welcome to the March 6th meeting of the Permitting and

4 Enforcement Committee. There are agendas on the back

5 table. And if anyone would like to speak to any

6 particular item, there are speaker slip forms to fill out

7 as well. Fill them out, bring them up to Donnell, and

8 then you will have an opportunity to address our

9 committee.

10 Also I would like to ask if you would either turn
11 off or put in the silent mode your cell phones and pagers.

12 Thank you.

13 And Donnell, would you please call the roll.

14 SECRETARY DUCLO: Members Peace?

15 COMMITTEE MEMBER PEACE: Here.

16 SECRETARY DUCLO: Wiggins?

17 Chair Mulé?

18 CHAIRPERSON MULÉ: Here.

19 Thank you. Board Member Wiggins plans to be here
20 in about 20 minutes or so.

21 And we also have our Board chair.

22 Thank you for being here.

23 And we expect one other board member here soon,
24 hopefully.

25 Very good.

1 Do we have any ex-partes?

2 COMMITTEE MEMBER PEACE: I'm up to date.

3 CHAIRPERSON MULÉ: And I am up to date as well.

4 Thank you.

5 Mr. Levenson, could we have your Deputy Director's
6 Report?

7 Good morning.

8 DEPUTY DIRECTOR LEVENSON: Good morning, Madam
9 Chair and Board Members.

10 I'm Howard Levenson, deputy director for
11 Permitting and Enforcement.

12 Today is an unusual meeting in a couple of
13 circumstances. We don't have any permits on the agenda,
14 which is very unusual, and also there are a couple of
15 staff here who are addressed in suits and ties, and we
16 rarely see these guys looking like this.

17 CHAIRPERSON MULÉ: I almost didn't recognize Wes.

18 (Laughter.)

19 DEPUTY DIRECTOR LEVENSON: So it's a bit of a
20 shock for them, but they'll muddle through.

21 I do have a number of things I would like to
22 report to you on before we get into the agenda today.

23 First of all to let you know that we just
24 completed two very successful post-closure land use
25 conferences or symposia -- one down in Ontario and one in

1 Stockton -- and we had about a hundred people at each one
2 of those, a very diverse audience of planners,
3 consultants, landfill operators, and LEAs and other local
4 regulatory agencies.

5 So I think it was really a great conference.

6 We're going to have a lot of information posted on
7 the web and there was a lot of interest in it, and we'll
8 be doing some follow-up reporting to you and seeking
9 further direction.

10 I do want do recognize a couple of people for
11 that: Don Dier, who has come back sort of out of
12 retirement to help us on that; Dennis Corcoran, Mike
13 Wochnick, both from P&E; and Scott and Wes, of course,
14 were involved in that as well. So in my view, it was just
15 a great conference and lot of folks contributed to that.

16 Secondly, I would like to give you an update on
17 the, what we call the, AB 1497 regulatory package, also
18 more formally known as the permit implementation
19 regulations.

20 This is the package that deals with legislation
21 passed a few years ago and that requires the Board to
22 define significant change in the design or operation of
23 the solid facility that is not authorized by the existing
24 permit. And we've had a number of public workshops and
25 been directed by the Board to initiate the formal

1 rule-making period. There's been a lot of discussion
2 about decision tress and various lists, and you will hear
3 more about that when we come back to you.

4 We have submitted this to agency. It has -- The
5 package has to be prepared in a certain way. We've gotten
6 the economic analysis completed and it's gone up from our
7 executive director to agency for signature.

8 After that, it has to go through the Department of
9 Finance and then to the Office of Administrative Law. So
10 a few steps to get through, but we're hoping that the
11 60-day period will begin in mid-April. That means it
12 would end in mid-June and we would report back to you,
13 probably, in August or September for further direction.

14 We will be holding -- We do plan to hold a couple
15 of informal workshops, hopefully before the 60-day period
16 starts, in order to walk people through the regulations or
17 the drafted regulations and make sure that, whether people
18 agree or disagree, at least everybody understands what is
19 being proposed in that package.

20 In light of the last item today, the LEA
21 evaluation item, I do want to let you know that our LEA
22 support services branch just completed a set of six round
23 tables around the state, where we meet with LEAs to
24 explore issues of mutual concern. We do this series three
25 times a year. We also meet quarterly with LEA program

1 managers through the Enforcement Advisory Council and then
2 bimonthly with the environmental health directors through
3 the Solid Waste Policy Committee to discuss a variety of
4 topics, including this permit implementation regulations,
5 universal waste issues, and other areas.

6 We do have some upcoming operator LEA and operator
7 training that is going to be focused on landfill gas
8 monitoring and control strategies at developed landfills.
9 That's going to be later this morning in April, so that's
10 where we're trying to bring in operators for more joint
11 training.

12 Related to health and safety, I do want to
13 recognize my floor for getting recognition in the last
14 emergency drill. Floors 7, 10, 18, and the command center
15 are being recognized for their excellence in performing
16 the evacuation procedures during the 2006 fall relocation
17 evacuation drills.

18 I don't treat this very lightly. Our emergency
19 procedures are very critical, so I want to note that the
20 24th and 25th floor aren't being recognized and just
21 wonder if you feel safe up there.

22 Make sure that everybody pays attention to this.

23 CHAIRPERSON MULÉ: Maybe we need a training,
24 Howard.

25 DEPUTY DIRECTOR LEVENSON: Maybe. And then just a

1 couple more things. A universal waste update. As you
2 know, we've been working collaboratively with the
3 Department of Toxic Substances Control to try and answer
4 many of the myriad of questions that have come in about
5 the Department's decision to not -- or to let the sunset
6 of the disposal exceptions stand.

7 In January we did issue an all-LEA e-mail or
8 guidance document with our initial guidance to LEAs on how
9 to handle the sunset, and that generated a number of
10 different questions related to enforcement at solid waste
11 facilities; what are liabilities and issues related to
12 collection at curbside and residential programs; what
13 are -- what is the Department doing with retail takeback
14 and manufacturers and so on.

15 We in the Permitting and Enforcement Division have
16 subsequently worked with Toxics on a frequently asked
17 questions, response. That was posted February 22nd and
18 answers, we think, pretty -- most if not all of the
19 questions are related to enforcement at facilities. There
20 are still some outstanding questions related to collection
21 that the Department is working on in response to the
22 various folks who pose questions. And then there's
23 continued outreach that's going on, being coordinated with
24 the Department and across the entire board: Public
25 affairs; solid waste division; waste prevention; market

1 development; Office of Local Assistance; and P&E.

2 We are all working together on providing more
3 information to the public in terms of where to take
4 things, who to contact, and so on. And I will defer to
5 Jim, probably in his report later this week, to update you
6 on that.

7 Lastly, just a couple of upcoming things.
8 Tomorrow at 1 o'clock we have an informal workshop on the
9 temporary waiver regulations. This is an issue that came
10 up last year in response to some requests for a temporary
11 waiver and permit terms and conditions. It became clear
12 that there were some lack of clarity in the regulations
13 about definitions of what constitutes a temporary
14 emergency and what powers the executive director has to
15 deny or revoke or suspend a request or temporary waiver.

16 And the Board directed us to go ahead and open
17 that rule making up, very narrowly, to focus on the
18 definition, just to make sure it's very clear what a
19 temporary emergency is, and to clarify the powers of the
20 executive director.

21 So we have the first informal workshop on that
22 scheduled tomorrow afternoon at 1 o'clock, and then we
23 will proceed down that path and eventually come back to
24 you for direction to start the formal rule making.

25 On March 29th we have the first meeting of the

1 statewide illegal dumping or illegal disposal task force.
2 I will be sending you a memo, through Mark, in the next
3 day or so, that explains the scope of this and what the
4 proposed membership is. But this will be a major effort
5 from the P&E division over the course of the next six to
6 eight months, to bring together a wide range of groups
7 around the state, local and regional entities, get their
8 sense of what the problem is, what kinds of solutions
9 might work for them, and then report back to you on what
10 kind of tools local and regional agencies need to try and
11 do more on this problem, and seek your direction on what
12 else to do with that regard.

13 So it will take quite a while to get that input,
14 but we are starting down that path.

15 Last thing that I want to flag to you is that we
16 still have a hearing scheduled for April 5th on an
17 enforcement order that we issued in our role as
18 enforcement agency for County of San Luis Obispo.

19 Last September we issued a cease and desist order
20 to Mr. Jim Filbin, requiring him to immediately cease and
21 desist accepting type A inert debris. Mr. Filbin appealed
22 that order to the Board, and when the enforcement order is
23 appealed, its effect is stayed until there is some
24 resolution.

25 However, in January he did agree to waive the stay

1 of enforcement of the order, and we have now reset the
2 hearing for the afternoon of April 5th.

3 Now, that's the end of my Deputy Director's
4 Report.

5 I would be happy to answer any questions.

6 Otherwise, we can move on to the agenda items and the
7 various overviews that we're going to try to provide to
8 you today about some of the involved programs.

9 CHAIRPERSON MULÉ: Any questions for Howard?

10 Well, I just want to make a few comments.

11 I did have an opportunity to attend both
12 post-closure land use symposia, back in February and the
13 beginning of this month.

14 And Howard, I really want to thank you and your
15 staff, Don, everybody, for putting on what I felt was
16 probably one of the best events that I have been to since
17 I have been at this Board.

18 The attendees at this conference, the program,
19 everything was just so relevant to what's really happening
20 out there in the real world, and, again, I just want to
21 thank you all for doing such a great job with that. And I
22 hope we can continue that discussion because it's an
23 important discussion. It's an important issue.

24 Also, I'm very pleased, as you know, with the
25 illegal dumping task force. This is another issue that,

1 again, as you travel around the state, particularly where
2 I come from, in the Inland Empire, this is a huge issue.
3 And we need to deal with it.

4 We've had some successes, locally, but also
5 there's a real opportunity for us at state level to do
6 more and to share the successes that have been going on
7 throughout the state.

8 So again, Howard, I just want to thank you all for
9 all your work with that.

10 And as Howard mentioned, today we're going to have
11 staff provide several overviews of programs. And I just
12 think it's a great opportunity for some of our new board
13 members, as well as for those of us who have been here for
14 a while, to revisit some of these programs, such as a
15 solid waste cleanup program, the farm and ranch cleanup
16 program, and the LEA evaluations.

17 So with that, Howard.

18 DEPUTY DIRECTOR LEVENSON: Okay. Thank you.

19 What we are going to do first, the first four
20 items on the agenda have to deal -- three contracts with
21 the solid waste cleanup program and then grant awards from
22 the farm and ranch cleanup program.

23 So what we're going to do to embrace those four
24 agenda items, is Scott Walker, branch manager and
25 responsible for all those programs, and West Minderman,

1 who directly runs the programs, are going to provide you
2 with an overview for all of those four items, kind of go
3 through the solid waste program and the farm and ranch
4 program to show you what some of the statutory bases for
5 those are, what some of the projects that we've had are,
6 and what some of the outstanding issues are. And then
7 we'll come back to the individual items, one by one.

8 CHAIRPERSON MULÉ: Thank you.

9 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

10 MANAGER WALKER: Thank you, Howard. Scott Walker,
11 Permitting and Enforcement division.

12 (Thereupon an overhead presentation was
13 presented as follows.)

14 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

15 MANAGER WALKER: As Howard indicated, I'm going to
16 start with an overview of the solid waste cleanup program.
17 And I will hand it off to Wes Minderman. He will present,
18 specifically, Items B, C, and D, which is consideration of
19 a new round of contractors necessary to implement the
20 program.

21 Then for Item E we will provide another brief
22 overview of the farm and ranch cleanup grant program, and
23 then Carla Repucci will finish off the presentation with
24 the consideration for grant awards for this current cycle.

25 These programs represent a major foundation of the

1 Board's core mission to protect public health and safety
2 and the environment.

3 And before I go farther, I just really would like
4 to acknowledge Wes Minderman; Brad Williams; Jeff
5 Cornette; Jerry Oberhelman; Carla Repucci; Mustafah Botan;
6 also Steve Levine from the legal office; and the admin
7 division, which does a lot of work. It's a tremendous
8 credit in implementing these programs. The Board is very
9 privileged to have such a talented group. They accomplish
10 a tremendous amount with very few resources. And it's
11 pretty amazing, so I really feel happy to work with these
12 people.

13 --o0o--

14 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

15 MANAGER WALKER: Assembly Bill 2136, Eastin 1993,
16 established a program for cleanup of solid waste disposal
17 and codisposal sites where the responsible party cannot be
18 identified or is unable or unwilling to perform a timely
19 cleanup to protect public health and safety.

20 The Solid Waste Cleanup Trust Fund was established
21 for funding of the program and including funding options
22 specifically in statute, which include direct expenditures
23 as Board-managed projects.

24 This is where Board staff work directly with
25 contractors to implement the projects and then also grants

1 and loans to public agencies where they implement the
2 project as needed, and we provide the funding assistance
3 and technical assistance.

4 Board-managed projects are typically the largest
5 and most complicated sites. These are cases where the
6 local agencies do not have the resources and expertise to
7 manage the cleanup project and, in frequent cases, for
8 emergency response too.

9 We will go over, in more detail, more information
10 about the trust fund, how it works, and then also contract
11 information, more specific scopes of work, and the
12 specific contracts we have before you today.

13 Implementation of the program is governed by
14 statute and various policies that were developed by the
15 Board since the program's inception. We incorporated many
16 of these policies and regulations adopted in 2000.

17 Also I would like to point out that the grant
18 portion of the program, we periodically bring back to the
19 Board to update the scoring and evaluation process.

20 As far as the implementation of the program,
21 ongoing outreach efforts are a major part. We spend a lot
22 of time working with local agencies and going out there in
23 the field and trying to really look and find which true
24 sites need cleanup.

25 The sites come to us primarily by direct request

1 from local agencies, but there's also other ways they come
2 to us. They come by referral by other agencies or they
3 also come from referral by other board programs and the
4 public, and we also continually reevaluate our inventory
5 in the Solid Waste Information System to determine whether
6 or not there's a site that may pop up that needs to be
7 considered for cleanup.

8 Sites are investigated and characterized by Board
9 staff with the assistance of the engineering services
10 contract, if it's required. In some cases, the local
11 agencies and grantees, in many of those cases, will
12 actually perform those activities with their own
13 contractors.

14 The contract may also be used to develop mediation
15 plans and provide what's called construction management in
16 the field and other services related to the investigation
17 and enforcement and other aspects.

18 The Board staff evaluate potentially responsible
19 parties. Enforcement actions, which are performed
20 primarily -- well, essentially in all the local agencies
21 at this point, in some cases, enforcement action may not
22 be applicable.

23 Site access and contributions and participation by
24 other agencies. All these projects and sites are reviewed
25 by staff for eligibility requirements and prioritization

1 with respect to public health and safety and other program
2 criteria, and they are submitted to the Board on an
3 individual basis for approval.

4 --o0o--

5 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

6 MANAGER WALKER: On a last point, enforcement and
7 cost recovery aspect. I would like to point out, this
8 program provides a very important backup for local
9 government solid waste enforcement programs. We work
10 primarily with LEAs but also with code enforcement
11 departments, and these sites typically come to us as a
12 last resort, when all efforts have been exhausted against
13 responsible parties, if they can be identified.

14 Another factor, we also use this program as a tool
15 to leverage enforcement actions. In many cases we have
16 found that the responsible parties can be persuaded to
17 cleanup the site, themselves, without Board expenditure,
18 with a credible threat of a Board cleanup, followed by
19 property liens and other civil action for cost recovery.

20 And the most recent site, in December, that we
21 brought forward, Smith and Thompson, we're pretty close to
22 having them clean that up themselves, and we feel pretty
23 positive about that one. There's been some other good
24 cases where it's worked.

25 --o0o--

1 REMEDICATION, CLOSURE, & TECHNICAL SERVICES BRANCH

2 MANAGER WALKER: As with most -- other Board
3 programs, the Committee and Board periodically review
4 policies and procedures to improve the program performance
5 and also to adapt to evolving challenges. And staff
6 anticipate initiating such an effort in the near future in
7 which we will seek Committee discussion and rule making or
8 another direction.

9 We have identified, so far, several areas for
10 discussion and direction that we would like to just point
11 out here, briefly.

12 And the first is to look at the enforcement and
13 cost recovery aspects, including a Board-lead enforcement
14 component, which the statute would support and which we
15 think can be done to essentially accommodate and better
16 assist some of the local agencies.

17 We also need to get involved early on in
18 enforcement action because of the cost recovery component.
19 It may be better to have a component whereby we take that
20 upfront.

21 The second is to clarify eligibility of
22 Board-managed projects for publicly operated sites and
23 flexibility on grant match requirements. And we see
24 several areas there that we can look at to respond better
25 to stakeholders and provide more flexibility for the

1 program.

2 The third is to clarify grant and eligibility
3 requirements for illegal dumping cleanup and also the
4 stormwater trash cleanup project. We will show you some
5 slides and talk a little bit about that later, but there's
6 some room for looking at that.

7 Then we would like to look into adding a private
8 party loan component and also improve the flexibility and
9 efficiency of grant processes.

10 And finally, as brought forth by the BKK case, we
11 feel it would be important to come back to the Board to
12 clarify eligibility for Title 27, California Code of
13 Regulations closure and post-closure activities. And the
14 statutory intent was not to take the place of operators or
15 owners that require financial assurance to do it
16 themselves, but the intent did indicate where there may be
17 situations where the Board may want to take on some of
18 these activities, and I'll illustrate with BKK kind of how
19 that fits in.

20 In addition, legislation has also been proposed
21 this session, and it has the potential to address several
22 policy issues and enhance program performance. And this
23 is Assembly Bill 2211, Karnette, and it has recently been
24 introduced. It would clarify eligibility for publicly
25 operated sites for Board-managed projects, would provide

1 additional flexibility for local government matching
2 grants. It would incorporate the cost recovery waiver
3 provisions that the Board has in the policy and also
4 clarify statutory intent to clearly allow for eligibility
5 of the stormwater trash cleanup sites, which are a big
6 problem in Southern California.

7 --o0o--

8 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

9 MANAGER WALKER: Now I would just like to go
10 through some program performance measures that we track.

11 The first is the funding and cost recovery and
12 leverage contributions. And through this slide, I would
13 just like to point out that the Board has approved, to
14 date, about \$55 million in net project funding to achieve
15 over \$90 million in total site cleanups.

16 Note, in 1998 the program slowed down quite a bit.
17 The Board really looked at the program and really changed
18 its direction. One of the areas we needed to increase
19 outreach in Southern California. The Board wanted us to
20 look at the stormwater trash problem, get more involved in
21 illegal dumping cleanups. And by and large, we've been
22 very successful in meeting that direction.

23 I would also like to point out the cost recovery
24 may also ramp up in the future. We have at least two very
25 large liens that we are expecting at least some payout

1 from property sales, which are pending, so we think
2 there's a very good chance that that's going to ramp up.

3 In spite of the recent -- The other point I want
4 to make about this slide is that the Board also wanted us
5 to increase the leveraging of the program for other
6 contributions and matching grants, etc.

7 And in spite of the fact that we've had some
8 really huge Board-managed cleanups -- Crippen and La
9 Montaña -- the leverage contributions have steadily
10 increased, so we've been very happy with that. And we
11 continue to work on that to increase that level.

12 --o0o--

13 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

14 MANAGER WALKER: Another measure of performance
15 that we have, we record the total sites and total number
16 of sites and number of projects. Typically the grant
17 projects will get more than one site, especially as we get
18 down to these illegal dumping sites. There are as many as
19 71 in a given grant, and we have done -- The Board has
20 approved 590 sites, and we have about 16 projects, 12
21 grants going on. About 450 sites have been cleaned up.
22 So that's a measure that we track.

23 The Board has removed and properly disposed of
24 405,000 tons, through this program, tons of solid waste,
25 we've recycled or otherwise diverted, which is the intent

1 here. The Board's direction is to do this to the extent
2 practical, but we've recycled or diverted 190,000 tons,
3 and we feel pretty good about that. It's less than 30
4 percent, but much of the waste that we clean up is so
5 heavily contaminated. It's very, very difficult to
6 recycle.

7 We've also removed and recycled and properly
8 disposed of over 500,000 tires, and we work with the tire
9 cleanup program, and really if it's a tire-only site, they
10 will handle it. We used to handle all the tires. But
11 nowadays there's quite a few sites that they are
12 commingled with trash, and so we'll handle that type of
13 situation.

14 And then we've also removed and properly disposed
15 of 1,100,000 pounds -- not tons -- of hazardous waste.
16 The pounds and the threat and cost such that the
17 comparison is better with the pounds.

18 And then finally, we've recovered for potential
19 beneficial use over 2000 acres of land that was heavily
20 contaminated and rendered useless.

21 --o0o--

22 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

23 MANAGER WALKER: This next slide goes through what
24 we also track, the number and types of sites. And going
25 back to the previous slide, showing the funding, note that

1 since 2000, we've really ramped up the number of urban
2 nuisance illegal dumping sites and also the stormwater
3 trash cleanup sites, so that's an area that has shown a
4 large increase.

5 And this was directed by the Board and we feel
6 pretty good about what we've achieved.

7 --o0o--

8 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

9 MANAGER WALKER: Now I would like to go through
10 just a panoply of the types of sites and situations.
11 We'll kind of run through this. It's pretty quick and
12 fast, but hopefully you get something out of it.

13 But the first category is illegal disposal --
14 Illegal disposal sites are the vast majority of sites that
15 we cleaned up. We've had early on in the program these
16 legacy open dumps which were community dumps that were
17 operating for many, many years. We knew about them when
18 the Board was created, primarily in 1990, and they were
19 really huge. They had to be tied, in some cases, to
20 infrastructure for solid waste handling.

21 One of these was the Weitchpec site in Humboldt
22 County. A very huge project, very successful project, and
23 that's remained clean, and then another example is the
24 West Sixth Street, Straugh Road in the Rio Linda area in
25 Sacramento, which was another site that we did under this

1 category.

2 Fortunately, these large legacy dumpsites, they
3 are rarely found now. We still find them. It seems like
4 they are mainly being found now on some of the tribal
5 lands. And tribal lands have a unique set of challenges.
6 We are working -- We have worked on tribal lands and we
7 are also doing some more work in those tribal lands to try
8 to get out some of these really large legacy open dump
9 sites.

10 --o0o--

11 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

12 MANAGER WALKER: Now we get into the sham -- I
13 call them sham composting recycling illegal disposal
14 sites.

15 This is -- This is, you know, essentially an
16 unfair competition situation for legitimate solid waste
17 facilities, where you get these, you know, sham
18 operations. They undercut bidding and then they operate
19 facilities that are clearly not in compliance and they can
20 become extreme threats to public health and safety and the
21 environment.

22 The Nicholson Avenue site in Long Beach is an
23 example of a so-called transfer recycling station, which
24 was really basically a large pile of waste in the middle
25 of Long Beach, and we clean that up and the Board managed.

1 The second is River Ranch Organics in Riverside
2 County. This is another case where they accepted quite a
3 bit of really mixed waste, a lot of contamination, and
4 they just really intended on taking it and ultimately
5 abandoned the site.

6 Finally, just to illustrate Pacific South West
7 Farms, this is residual organics from a MRF operation, and
8 we didn't approve this in front of the Board, but we used
9 the program for leverage and also technical assistance to
10 convince the hauler to clean up the site. And it was
11 really a huge problem, but it was successfully cleaned up
12 by the hauler in that case, and it's an example of how we
13 use the programs sometimes for leverage.

14 --o0o--

15 REMEDICATION, CLOSURE, & TECHNICAL SERVICES BRANCH
16 MANAGER WALKER: One of the categories on the sham
17 recycling facilities is the construction and demolition
18 debris at illegal disposal sites. These are still -- The
19 other ones are not as much -- they are still a problem but
20 they are not as much -- especially the organics and the
21 composting, we've not seen as many of those lately. But
22 the construction and demolition debris sites, since they
23 just started being regulated relatively recently, we're
24 still dealing with these sites.

25 And one of them was an example, Cajon illegal

1 disposal site, the Cajon Pass that caught fire and this
2 was, in part, an emergency response. The Board actually
3 got this cleaned up through a grant -- matching grant, a
4 very creative matching grant and spent about 750,000 to
5 get over a 3 million dollar cleanup, and the site looks
6 great now. It's all clean and it stayed clean.

7 --o0o--

8 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

9 MANAGER WALKER: Another -- The infamous Crippen
10 site it's -- You could call it construction demolition
11 debris, but the consensus is it really was a lot of solid
12 waste in this thing. And it caught fire, spontaneous
13 combustion, a tremendous -- a terrible catastrophe for the
14 local community, with the smoke. It was declared an
15 emergency.

16 The Board actually -- We used our contractors in
17 the emergency response phase, and this shows some of the
18 equipment, the specialized training and expertise that our
19 contractors provide in working in such a situation. They
20 had to go through the burning waste over about a six-week
21 period to put the fire out and then later we came in on
22 phase two and removed all the waste and to a proper
23 facility.

24 We also -- This is an example, too, of the
25 partnership with other agencies, because we work with

1 primarily USEPA emergency response to share contract
2 expenditures and we have a really good partnership. We've
3 done this on other sites too.

4 --o0o--

5 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

6 MANAGER WALKER: This is a La Montaña. It's a
7 construction demolition debris site, but it's more of an
8 inert debris concrete rubble that was formed as a result
9 of the Northridge Earthquake on another sham operation.
10 It was right in the middle of a residential area. This
11 was an environmental justice issue, a tremendous nuisance
12 problem for the local community.

13 And the Board -- through a Board-managed project,
14 we did clean this up last year. And this one cost \$2.3
15 million. Crippen was a little bit more expensive to the
16 Board, but cost recovery is continuing -- Cost recovery
17 was settled on Crippen, but this one is ongoing.

18 One thing about this project was this entailed
19 very, very focused effort on community relations and
20 outreach. We had public hearings on the site. We worked
21 very closely with the public and with some of the local
22 community groups and we felt very, very good about the
23 acceptance of the community, and we were very happy with
24 how we did this.

25 --o0o--

1 REMEDICATION, CLOSURE, & TECHNICAL SERVICES BRANCH

2 MANAGER WALKER: Just a quick point about the
3 stormwater trash outfall sites. In Southern California,
4 primarily, there's a tremendous problem with trash that
5 bypasses -- essentially goes from the streets into the
6 storm drain inlets and out into the urban creeks and
7 streams, like the L.A. River, and it gets washed down, it
8 goes into the ocean, causes a tremendous problem, lots of
9 cleanup and contact at the beaches, and so we've been
10 working with local jurisdictions on this, and we've been
11 able to fit a matching grant-type project with these
12 agencies.

13 We can't really do Board-managed of these, because
14 you really need to have local utilities involved. But
15 through a matching grant there's technologies that can be
16 used to provide barriers to the trash that they can
17 collect, easy, before it gets in the outfall and then
18 washed down into the ocean.

19 So we've been working on that quite a bit and we
20 have a number of ongoing projects that are going on right
21 now in that area.

22 --o0o--

23 REMEDICATION, CLOSURE, & TECHNICAL SERVICES BRANCH

24 MANAGER WALKER: Now just to go through some
25 illegal dumping sites. This is just an example. It's one

1 of our grants, City of Oakland. It's an example site.
2 They are typically pretty small, but they are very
3 unsightly. They can create public health and safety
4 hazards, attractive nuisance. Some of them are
5 contractors that are, you know, again, you know, unfair
6 business practices, one could say, where they are trying
7 to undercut others who are legitimate.

8 We have projects, very similar, grant project,
9 Sacramento County. They've identified about 45 areas in
10 the grant, and we have a grant with them now. Also City
11 of L.A., we have a grant.

12 The Round Valley tribe site, this is an example of
13 more rural-type site, smaller, and this is a type of site
14 that now we really can handle more through the farm and
15 ranch grant program.

16 We used to be able to try and deal with these in
17 the solid waste cleanup program, and the farm and ranch
18 program has the ability to do these types of projects, and
19 it's also a tribal land-type project that the program did
20 take.

21 And finally -- Not finally, but South Spit,
22 Humboldt County, this is an example of homeless camp-type
23 illegal dumps in a very environmentally sensitive area.
24 It creates -- It's a unique set of challenges in terms of
25 the social services, etc. And this was a grant project

1 with Humboldt County and we increasingly see some of
2 these sites also.

3 Finally, Billingsley is an example of an illegal
4 dumping site that's basically gotten way too big and this
5 is typically where the Board-managed program gets
6 requested to clean it up. And if the sites are not nipped
7 in the bud, they get really, really big. And Billingsley
8 is probably a couple hundred thousand dollar cost, 150,
9 200,000 dollar cost.

10 --o0o--

11 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

12 MANAGER WALKER: Now we get into landfill
13 projects. Now, landfills have a problem with exposed
14 waste. We have leachate issues and landfill gas, drainage
15 erosion stability.

16 And this is an example: BKK, which we did
17 remediation on a portion of the site that was heavily
18 damaged last year with really extreme rains. And just to
19 let you know, BKK, a lot of talk about BKK, but that's the
20 way it looks now. It looks really good. And it was
21 constructed -- rather than remediated to a lower standard,
22 it was remediated to closure standards to make a real
23 higher level of containment and also address closure part
24 and leveraged the rest of the site closure so that we
25 could complete it.

1 --o0o--

2 REMEDICATION, CLOSURE, & TECHNICAL SERVICES BRANCH

3 MANAGER WALKER: Now we get into burn dumps. And
4 burn dumps -- This was the typical way that solid waste
5 was managed for many, many years, primarily prior to Clean
6 Air Act in the early '70s. Also in L.A. in the '50s, they
7 stopped it in the mid to late '50s.

8 This is Glass Beach, Fort Bragg, an actual
9 picture -- I think it was from the '40s -- of the bluff,
10 and it's pretty dramatic.

11 And there's about 500 of these sites, statewide.
12 And we keep track of these. We've been involved in
13 cleanup, about 25 of the real worst ones, both grants and
14 Board-managed.

15 This is an example of a sensitive area of work.
16 The Board's contractors remove the ash. There was a lot
17 of ash there, and the public was walking right through the
18 ash. It had hazardous levels of lead and it was
19 definitely a major public health problem.

20 We work cooperatively with the city, the Water
21 Board, also the Parks -- State Parks department and
22 private land. This was actually privately owned and we
23 were able, with the Board's cleanup of this site, we were
24 able to get this site transferred to public ownership
25 connection with the MacKerricher State Park, which

1 expanded to include this area. Even though the public was
2 going in there, it was a private parcel of the entry. And
3 with the contributions and the arrangements, we were
4 successful to get that over to the state parks. It's a
5 real jewel of the state parks, that whole area, and it's a
6 very, very important tourist spot for the City of Fort
7 Bragg.

8 --o0o--

9 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

10 MANAGER WALKER: And then finally, another burn
11 dump, more of an inland burn dump. This is a City of
12 Sonoma project, and this is burn ash. This is around by
13 north of the town in the area of the cemetery, and there
14 were bottle hunters, people that would hike through this
15 and contact lead, contaminated soils, and there were other
16 contamination in the site.

17 There's actually low-level radioactive waste in
18 the site which was burned up. Sometimes we find -- We
19 really got to look for, because back in those days there
20 was a number of different things we used in our house in
21 the '40s that were radioactive.

22 And that's another example of bringing USEPA in.
23 We brought them in to help us handle that, and in addition
24 to basically, in this case, like Fort Bragg dump, it was a
25 clean closure where we remove all the waste. And in some

1 cases we will consolidate the waste, but in this
2 particular case this was appropriate for clean closure and
3 removal. And that shows during the project. And then
4 finally, that's that way it looks down.

5 It's -- We coordinated this project with
6 essentially the city's public access trail that was going
7 through it. So this was another example of a type of
8 project that we work with a lot of other agencies with.

9 I think right now, before I hand it off to Wes
10 Minderman to present Items B, C, and D, I would be happy
11 to answer any questions that you may have.

12 CHAIRPERSON MULÉ: Thank you, Scott.

13 Do we have any questions for Scott before we get
14 on with the agenda items?

15 Board Member Peace.

16 COMMITTEE MEMBER PEACE: I have a few questions.

17 So the trust fund, the money for that comes from
18 the IWMA?

19 CHAIRPERSON MULÉ: Essentially it's transferred
20 from the IWMA. It's -- the trust fund -- and Wes will go
21 into this in more detail, but the trust fund is
22 essentially restricted in just implementing the statute.

23 It's also continuously appropriated so that, you
24 know, given a fiscal year, we can use that money without
25 the three-year rule, so we can also use money continuously

1 that gets redeposited in from cost recovery or other
2 means.

3 So we have -- This fund has more flexibility than
4 like the IWMA tire fund and some of the other funds.

5 COMMITTEE MEMBER PEACE: So the amount that goes
6 in there is determined by us, on how much we think we're
7 going to need? Or is it determined by the statute?

8 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

9 MANAGER WALKER: It's determined by the statute
10 and the legislature and governor.

11 Typically it's \$5 million a year, and the net to
12 the program is about 4.7. And some years it's been a
13 little higher.

14 And right now the fund is in pretty good
15 condition. We have about, after consideration of the
16 contracts, will be about \$3 million available for new
17 grants, projects, you know, new contracts for new grants.

18 And then the current budget proposed would have
19 our typical 5 million transfer next year, next fiscal
20 year.

21 COMMITTEE MEMBER PEACE: Okay. Thank you.

22 CHAIRPERSON MULÉ: Yes, Board Member Wiggins.

23 Please let the record reflect that Board Member
24 Wiggins has joined us. Thank you.

25 COMMITTEE MEMBER WIGGINS: These are for specific

1 sites. This can only go up to \$2 million, but it looks
2 like there's a lot -- Does it cover the whole state?

3 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

4 MANAGER WALKER: Yes. This program essentially
5 covers the whole state. This is for the whole state.

6 COMMITTEE MEMBER WIGGINS: And so they are doing
7 the engineering work for the cleanup at sites throughout
8 the state. \$2 million doesn't seem like a lot to cover
9 that.

10 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

11 MANAGER WALKER: It's not \$2 million. It's
12 \$5 million a year, typically.

13 Each annually -- Typically what the transfer would
14 be is 5 million available, each year.

15 COMMITTEE MEMBER WIGGINS: It's just that this
16 contract is not to exceed \$2 million.

17 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

18 MANAGER WALKER: Yeah. The contracts essentially
19 are tied to multiple years. We do contracts that will
20 last three years, including the year of award, and each
21 year there will be another -- There will be a transfer
22 next fiscal year, based on the contract, and this is to
23 accommodate the anticipated demand.

24 The contracts also give room, in case we get a
25 very large project, to --

1 CHAIRPERSON MULÉ: Wes, do you want to clarify?

2 I think Board Member Wiggins is talking about Item
3 2 and we're not there yet, but if you can answer her
4 question.

5 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

6 MINDERMAN: For the record, my name is Wes
7 Minderman.

8 And Ms. Wiggins had a very good question.

9 We do have -- And I will go into this a little bit
10 more on my presentation, but there are two types of
11 contracts in the program.

12 One is the engineering services and one is what we
13 call the environmental services contracts.

14 Ms. Wiggins has a question about the engineering
15 services contract and it does have a not-to-exceed
16 proposed of \$2 million. And yes, that contract does
17 provides engineering support services, statewide. And
18 based on our historical usage, we think that that
19 \$2 million not-to-exceed will be more than adequate to
20 cover the contract period.

21 COMMITTEE MEMBER WIGGINS: Thank you.

22 DEPUTY DIRECTOR LEVENSON: And I would also like
23 to provide a little bit more context and just make sure
24 that everybody understands that we essentially have three
25 kinds of cleanup activities under this.

1 We have our Board-managed projects, which are
2 handled typically by the two large environmental services
3 or construction contracts. Typically they have about a
4 million and a half dollars, in them each, and that's
5 before you on two of the items today.

6 We have some money in the engineering services
7 contract which supports the various investigative and
8 other kinds of risk services for all the cleanup programs,
9 including the grants.

10 And then whatever money is still in the fund is
11 available for the various grants or potentially even loans
12 that the Board might, you know, wish to approve.

13 CHAIRPERSON MULÉ: Thank you for that
14 clarification, Howard.

15 I guess we can proceed, Wes.

16 Are there any other questions for Scott?

17 Well, we will now proceed to Item 2.

18 (Thereupon an overhead presentation was
19 presented as follows.)

20 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

21 MINDERMAN: Good morning, Madam Chair and members
22 of the Committee and Board Member Brown.

23 For the record, my name is Wes Minderman, and I'm
24 going to be presenting Agenda Items B, C, and D, today,
25 for your consideration.

1 Before I get too far along, I have three items for
2 your consideration that are coming from the solid waste
3 disposal and codisposal site cleanup program.

4 Since all three involve award of contracts, I
5 thought it would be helpful to provide an overview of how
6 we do the contracting process here and a little bit more
7 on the program background on the Board-managed portion of
8 the program.

9 I also -- before I want to get started -- Scott
10 did acknowledge some specific staff at the beginning. I
11 wanted to acknowledge Tiffany Donohue of our contracts
12 office and Holly Armstrong of our legal office who help us
13 do the contracting process and, sometimes, despite my best
14 effort to mess it up, get us through it.

15 So I just want to acknowledge those two people,
16 this morning.

17 --o0o--

18 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

19 MINDERMAN: Okay. Why do we need contracts in the
20 solid waste cleanup program?

21 Well, if you look at the authorizing legislation
22 in the Public Resources Code, you see this little section
23 right here, which says, "In administering the program, the
24 Board is authorized to expend funds directly for cleanup."

25 These are what we call Board-managed or direct

1 implementation projects. And this is what we use our
2 contractors for in the program. As Scott gave you some
3 background, we think it's very effective. It's very
4 effective at getting sites cleaned up, and it's also very
5 effective at getting responsible parties to clean up
6 sites, knowing that we have a credible mechanism to get
7 sites cleaned up, if they refuse to do so or are unable to
8 do so.

9 --o0o--

10 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

11 MINDERMAN: How do we do these cleanups and what
12 are the types of contractors we have?

13 We have two essential types of contracts in the
14 program. One is the engineering services contract, and I
15 will go into the scope of work of these various contracts
16 a little bit later in the presentation. But that contract
17 is currently held by Bryan A. Stirrat and Associates. It
18 expires in May of 2006, which is why we're here, in March,
19 asking you to approve our new contracts so that we can get
20 them executed prior to the old contracts expiring. That
21 contract has about a quarter of a million dollars left in
22 it. We also have -- And that provides statewide services.

23 We also have two environmental services contracts.
24 They currently also provide statewide services, and these
25 are what we call our cleanup contractors. These are the

1 contractors that are typically small to medium size
2 construction firms that go out and pick up the garbage or
3 construct the caps or do whatever remediation activities
4 that we need done.

5 As you can see, one of our contacts, A.J. Diani,
6 has no money in it and will expire in May 2006.

7 Our other contract with Irv Guinn Construction
8 Company has close to a million dollars and will expire at
9 the same time.

10 But we're going to be asking you to approve the
11 award of new contractors today.

12 I guess one thing, before I move on, also, is to
13 just remind you that the environmental services contracts
14 were for statewide services. That is how we have done it
15 since the beginning of the program.

16 However, because of some recent determinations and
17 legal decisions, we currently have broken those up into
18 geographic regions, so today you will see one contract
19 proposed for northern California, as defined in the item,
20 and one contract proposed for Southern California, as
21 defined in the item. We always thought it was good to
22 have two contractors in overlapping areas.

23 We have provided that even with the geographic
24 distribution, that one contractor can provide backup to
25 another contractor in case they have a specific specialty

1 that would be helpful or in case the other contractor is
2 unable to respond in a timely manner.

3 Remember, the whole objective here is to perform
4 timely remediations of these solid waste disposal sites.

5 --o0o--

6 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

7 MINDERMAN: Okay. This is a lot of text, but I'm
8 going to go through it really quickly.

9 For engineering services, this is the scope of
10 work or an outline of the scope of work that the Board
11 approved back in September. And you can see, there's a
12 lot of engineering services, site surveys, such as what we
13 needed to do at La Montaña to get an estimate of the
14 quantity of materials there; title and deed searches;
15 responsible party research with where we use them to go
16 back and research operators; site ownership so that we can
17 pursue cost recovery. They do all sorts of plans for us:
18 erosion control systems like you saw on the Sonoma burn
19 dump, where you saw that nice vegetative slope; they will
20 work on the seed mixes for us; characterization of the
21 waste.

22 Scott mentioned that some burn dumps contain
23 radiological waste. They will perform those surveys for
24 us. And right down the whole gamut of services, right
25 down to emergency response, in case we have an emergency

1 on one of our cleanups where we have a spill or discover
2 some unknown condition. This is the contractor that would
3 respond out to that site to see what was there and to
4 remedy the situation.

5 Also general assistance for presentation. Scott
6 said we did a lot of outreach on the La Montaña site, and
7 so this is the contractor that we would use for those
8 services.

9 --o0o--

10 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

11 MINDERMAN: Now to the remediation services or
12 environmental services scope of work. Again, these were
13 considered by the Board back in September. The scope of
14 work is essentially the same for the two contracts we're
15 proposing today. The only difference will be the
16 geographic region, which they will be assigned in
17 California.

18 Covers removal; transportation and disposal of
19 solid waste; pickup activities; recycling; consolidation,
20 landfill covers. The heavy civil engineering lifting of
21 the program is done by these contractors. Site
22 investigation, they do a little bit of support for us.
23 Embankments; installation of, what we call, site security
24 controls: fencing, barriers, signs, those types of things.

25 So again, already approved by the Board back in

1 September by these resolutions noted at the top of the
2 slide there.

3 --o0o--

4 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

5 MINDERMAN: Ms. Peace had a good question about
6 the trust fund.

7 How do we pay for the services that we provide in
8 the program?

9 And there's a lot of legislation here and I
10 apologize, again, for the text and the little piggy bank
11 slide there, but it seemed appropriate at the time.

12 If you look at the trust fund, there's a couple
13 things in there. The legislature put in there,
14 specifically, that it was essential that any money be used
15 solely for the purposes of the article and not be used for
16 any other purposes. So they wanted the money that was
17 transferred into the trust fund to remain there. Okay.

18 If you look at how the trust fund was created,
19 under 48027(b), it's created and it says, "The money in
20 the trust fund is hereby continuously appropriated to the
21 Board for expenditure, without regard to fiscal year."

22 Scott mentioned earlier that we're not subject to
23 that three-year usage rule, although we manage a lot of
24 aspects in the program much like a program that would
25 operate out of a fund that didn't have the continuous

1 appropriation. You will see our grants are only good for
2 three fiscal years. You would see our contracts have
3 expiration dates on them three fiscal years out, including
4 the fiscal year of award, so we do manage the actual
5 implementation of the program much like that, except that
6 the money stays in the fund. It's continuously
7 appropriated.

8 Under 38027(c), you will see that the money to be
9 deposited in the trust fund includes the money
10 appropriated by the legislature from the Integrated Waste
11 Management Account. We are what they call -- what they
12 call -- I should say the budget office calls -- a transfer
13 program.

14 So the governor creates the budget -- or the
15 executive branch creates the budget -- and then the
16 legislature approves it, and then the money is transferred
17 into the trust fund for the purposes of the article.

18 We also are supposed to get any cost recoveries
19 and any loan repayments. Those are supposed to go back
20 into the trust fund also.

21 Under 48028, one last thing. It says "Any funds
22 that are not expended shall remain in the trust fund for
23 future expenditure," and that will play in a little bit
24 too. You'll see it a little bit. I'll go over the trust
25 fund status.

1 But one thing would be, like, the money that is
2 not expended in the existing contracts. When those
3 contracts expire, that will revert back to the trust fund
4 for usage on future projects, future contracts, future
5 grants, future loans.

6 --o0o--

7 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

8 MINDERMAN: Everybody asks me the current status
9 of the trust fund, so I will caveat this with the trust
10 fund is very dynamic. There's a lot of money coming in, a
11 lot of money being used by the grantees. A lot of cost
12 recoveries, but here's how it stands right now, as best as
13 I can tell.

14 The unreserved balance is about \$1.8 million. And
15 that's money that was left over from the previous fiscal
16 year. That isn't encumbered into grants used for loans or
17 encumbered into contracts.

18 You will see the fiscal year 2005/2006
19 appropriation. That has not been transferred, as of right
20 now, into the trust fund. It will be, prior to the end of
21 the fiscal year and as Scott mentioned earlier, typically
22 we -- or as proposed that the program get \$5 million a
23 year.

24 Our net on that is 4.75 million, because \$250,000
25 usually goes, as authorized in the legislation, goes for

1 administrative purposes to cover those costs.

2 So if you ask me what's really available right
3 now, I will probably tell you 6.6 million.

4 What are the impacts that these contracts are
5 going to have on that balance? You can see right here, we
6 have a new engineering services contract proposed for half
7 a million dollars and then the two environmental services
8 contracts for \$1.5 million, each, for the initial
9 allocations.

10 And that will leave about 3.1 million left in the
11 trust fund for use on new grants, augmentation of existing
12 contracts, loans if they come up.

13 What this doesn't show is, as I mentioned earlier,
14 the contracts, the existing contracts, are going to
15 expire. That money, which is about \$1.2 million, will
16 revert back to the trust fund. So 3.1 plus 1.2, I would
17 tell you, probably in May, when those contracts expire,
18 there's going to be \$4.3 million in the trust fund.

19 The other thing it doesn't show is potential cost
20 recoveries. Our legal office is continuously working on
21 those. I don't show this because I can't commit to it,
22 and a lot of it's not really public record at this time,
23 anyway.

24 So that's another thing that would come back into
25 the trust fund. It may affect this balance where I may be

1 before you in June saying, hey, you know, back in March I
2 told you 3.1 million. Now we've got potentially
3 \$6 million in the trust fund. But this is how I look at
4 it from a program perspective and show you the status of
5 the trust fund.

6 --o0o--

7 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

8 MINDERMAN: I thought it would be helpful, just
9 briefly, to go through the request for qualification
10 process. How do we award these contracts?

11 These contracts are awarded by a request for
12 qualification. The mandate in that process is to
13 determine the best qualified firm to do the work.

14 So how do we do that? We ask the Board to look at
15 it. We have a proposal. You look at our scope of work.
16 You approve it. We develop -- Or the contracts office
17 takes that scope of work and develops a request for
18 qualifications. We call it an RFQ. And then companies
19 submit what they call a statement of qualifications.

20 The contracts office will do an initial
21 completeness review to make sure that everything is there
22 that we need to be there, legally. And then we have a
23 panel review and score the statement of qualifications.
24 And they actually use criteria that are specified in
25 regulation, under Title 14.

1 And we try to set up a panel that's fair and
2 balanced. We typically use one person from the program.
3 This particular panel used, on these three contracts, was
4 one person from the program and two other staff from the
5 other sections of the P&E division. And they will go
6 through, review the statement of qualifications, based on
7 the criteria, rank them.

8 Then the mandate is that we interview at least the
9 top three firms. And then based on these interviews, the
10 panel determines who is the most qualified firm. After
11 that, we negotiate, with them, reasonable rates. If we
12 can't, we will move to the next highest rank firm and then
13 we come to you and ask you, based on the staff
14 recommendation, to award the contracts.

15 So that's kind of a general overview. It's
16 overseen by the contracts office and the legal office at
17 every step, and that's kind of a general overview of the
18 contract award process.

19 --o0o--

20 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

21 MINDERMAN: So I thought -- That kind of concludes
22 my general overview.

23 Unless there's some specific questions on the
24 generalities, I thought I could move into the specific
25 items really quickly.

1 CHAIRPERSON MULÉ: Any questions for Wes?

2 No.

3 Good job, Wes. Thank you.

4 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

5 MINDERMAN: Okay. Great.

6 (Thereupon an overhead presentation was
7 presented as follows.)

8 Well, Agenda Item B this morning is Consideration
9 Of Approval Of A Contractor For The Engineering Services
10 Contract Under The Solid Waste Disposal And Codisposal
11 Site Cleanup Program.

12 --o0o--

13 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

14 MINDERMAN: As mentioned in the item, we had six
15 companies submit statement of qualifications or complete
16 the statement of qualifications for this contract.

17 We interviewed three companies.

18 --o0o--

19 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

20 MINDERMAN: Here's kind of a general overview of
21 how we are going to see this contract. The objective is,
22 of course, to support the program in performing timely
23 remediations by providing engineering services throughout
24 California.

25 If you ask me what the funding's going to look

1 like over the next three fiscal years, here's our proposal
2 right now. This may or may not change, depending on
3 demand and need, but the initial allocation we're asking
4 for is half a million dollars. You will see the
5 not-to-exceed is \$2 million, and the first thing you'll
6 say is, wait a second, the funding for the three fiscal
7 years doesn't add up to the not-to-exceed.

8 That's something we do sometimes, because we don't
9 know what the need for that contract's going to be, so we
10 may propose a not-to-exceed higher than what we project
11 the actual funding to be. That will give you, as the
12 Board, and us as a program, a little bit of flexibility in
13 terms of coming back to you and proposing, you know, if we
14 need more funding, more augmentation, and higher
15 augmentations. But I just wanted to bring that to your
16 attention in case you were adding up the columns.

17 The terms of this contract, again, is going to be
18 three fiscal --

19 COMMITTEE MEMBER PEACE: I'm glad you clarified
20 that because I was adding up the column. For the other
21 two contracts for the north and the south, it did add up
22 to the 5 million, and this one didn't.

23 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

24 MINDERMAN: So, yeah, that was something I --

25 COMMITTEE MEMBER PEACE: So how do you get that 2

1 million? I mean --

2 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

3 MINDERMAN: Well, you know, we try to be
4 reasonable and just say, you know, the inherent problem
5 with the program is the activities we're trying to fix are
6 illegal. And so it's hard to project out what, exactly,
7 illegal disposal sites we're going to find in the next six
8 months or two years.

9 But we thought, you know, that was something I
10 decided, kind of as the program manager, to say, let's put
11 a higher not-to-exceed so we're not getting into that
12 problem of, well, is this an allocation versus an
13 augmentation and you're going over the not-to-exceed, so
14 again, it's kind of -- I call it, for lack a of a better
15 phrase, "the world according to Wes," which is my best
16 scientific guess, right now, as to what we think we might
17 need.

18 But right now we think that 1.2 million is going
19 to be fairly reasonable.

20 DEPUTY DIRECTOR LEVENSON: I will just add that we
21 still would come back to you if we receive the 1.2 million
22 over those three years and we do determine that we need
23 some more money, we'd come back to you with a request for
24 something up to that remaining 800,000 dollar amount, but
25 it would still be within that one contract, so we don't

1 have to go through an additional contract process. We
2 simply can seek your approval to come add additional
3 funding into the contract.

4 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

5 MINDERMAN: And I think I should add that it's the
6 world according to Wes with Howard and Scott's approval.

7 And then you can see the contract term kind of
8 lines up with the three fiscal years, including the fiscal
9 year of award. So you can see this contract will expire
10 in May of 2008.

11 And that's one of our consultants hanging off a
12 slope right there, doing confirmation sampling. I think
13 that's the Sonoma Developmental Center. So we ask these
14 guys to do pretty tough things.

15 CHAIRPERSON MULE: We have a question from Board
16 Member Wiggins.

17 COMMITTEE MEMBER WIGGINS: The Sonoma
18 Developmental Center had what?

19 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

20 MINDERMAN: The Sonoma Developmental Center had an
21 old burn dump that they used as part of the operations for
22 the hospital, many years ago, actually back up behind it.
23 And now on property owned by Jack London State Park, so we
24 went in -- The Sonoma Developmental Center had to clean it
25 up. We went in and assisted the Sonoma Developmental

1 Center in that cleanup.

2 COMMITTEE MEMBER WIGGINS: Thank you.

3 --o0o--

4 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

5 MINDERMAN: So here it is. The staff
6 recommends -- This recommendation is we recommend that the
7 Board approve the award of an engineering services
8 contract to SCS engineers, in support of the activities of
9 the solid waste disposal and codisposal site cleanup
10 program with an initial allocation for fiscal year
11 2005/2006 for \$500,000.

12 CHAIRPERSON MULÉ: Thank you very much, Wes.

13 We do have one speaker. So with the Committee's
14 indulgence, I rather prefer that we hear the speaker
15 first, and then we will take questions.

16 Patrick Sullivan.

17 MR. SULLIVAN: Good morning, Madam Chair and
18 members of the Board.

19 CHAIRPERSON MULÉ: Good morning.

20 MR. SULLIVAN: I'm Patrick Sullivan, SCS
21 Engineers, our director of our solid waste practice here
22 in California.

23 I'm going to be brief here. I'm simply here to
24 thank the Board and Board staff for selecting SCS for this
25 contract. Let you know that we are very excited about

1 beginning work under this program and under this contract.

2 And let you know that I'm available to answer any
3 questions, if you have any.

4 CHAIRPERSON MULÉ: Thank you, Patrick.

5 Do we have any questions for either Patrick or
6 Wes?

7 No?

8 Do I have a motion?

9 COMMITTEE MEMBER PEACE: I just had one other
10 little question, if I could ask Wes. I'm sorry.

11 I'm adding up the numbers again.

12 For the engineering services contract, it's
13 \$500,000, and that supports the environmental services for
14 the north and south, about \$3 million.

15 But I notice the next year it goes to \$300,000,
16 yet it's supporting environmental services for 3.5
17 million.

18 I was just wondering, how did you get those?

19 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

20 MINDERMAN: That was a tough thing in terms of
21 trying to project out. And I think, you know, when I went
22 back and looked at our current usage, I had it for three
23 fiscal years on the last contract. And I thought that the
24 actual demand would be somewhere around, over that
25 three-year contract, would be somewhere around that

1 1.2 million dollar mark.

2 I proposed an initial higher allocation of
3 \$500,000 just because, you know, I thought it would be
4 better to have a little more money, initially, into that
5 contract, because there's going to be a big transition.
6 There's going to be a lot of work that we're going to need
7 to transition those contracts over.

8 But again, how I laid it out, I just thought,
9 well, because we had the initial allocation higher at the
10 beginning, it would be a lower middle fiscal year
11 allocation and then a little higher fiscal allocation on
12 the last fiscal year, just depending on need.

13 And again, we'll be working -- when we come to the
14 Board every year -- to kind of forecast with the proposal
15 to augment those contracts. So don't hold me to those
16 numbers, but that's the best I can do right now.

17 COMMITTEE MEMBER PEACE: Okay. Thanks, Wes.

18 CHAIRPERSON MULÉ: Thank you, Wes.

19 Do I have a motion?

20 COMMITTEE MEMBER PEACE: I would like to move
21 Resolution Number 2006-41.

22 COMMITTEE MEMBER WIGGINS: Second the motion.

23 CHAIRPERSON MULÉ: We have a motion by Board
24 Member Peace, seconded by Board Member Wiggins.

25 Donnell, would you please call the roll?

1 SECRETARY DUCLO: Members Peace?

2 COMMITTEE MEMBER PEACE: Aye.

3 SECRETARY DUCLO: Wiggins?

4 COMMITTEE MEMBER WIGGINS: Aye.

5 SECRETARY DUCLO: Chair Mulé?

6 CHAIRPERSON MULÉ: Aye.

7 That passes unanimously, and we will put that on
8 fiscal consent.

9 Thank you. Next item.

10 (Thereupon an overhead presentation was
11 presented as follows.)

12 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

13 MINDERMAN: Moving on to Agenda Item C, this is
14 essentially the item for the approval of the contractor
15 for environmental service for northern California.

16 As you remember, we've already discussed the scope
17 of work.

18 Here's kind of my general summary slide.

19 Of course, this is going to support the program by
20 performing timely remediations and cleanup services. It's
21 for northern California only, which is defined as -- kind
22 of similar to how to Board defines northern California,
23 believe it or not -- all the counties in California
24 located north of and including Monterey, Kings, Tulare,
25 and Inyo Counties.

1 In addition, this will serve as the backup for our
2 contractor in Southern California, in case they are unable
3 to respond to a specific need or we don't have the
4 resources in that contract for that area.

5 You can see how the funding is proposed right now,
6 a million and a half dollars from this fiscal year. We
7 think these next two fiscal years are going to be a
8 million and three quarter -- \$1.75 million. And that will
9 be adjusted, depending on the actual usage and need, and
10 the contract not-to-exceed is \$5 million and the contract
11 term, again, three fiscal years, including the year of
12 award, April of 2006 to May of 2008.

13 And this is also the Sonoma Developmental Center,
14 just for the record. And that is an excavator hanging off
15 that slope that you saw that gentleman taking samples on,
16 by a very thin wire.

17 --o0o--

18 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

19 MINDERMAN: Staff recommendation is we are
20 recommending that the Board approve the award of the
21 environmental services contract for northern California to
22 A.J. Diani with an additional allocation from the FY
23 2005/2006 appropriation in the amount of \$1.5 million.

24 CHAIRPERSON MULÉ: Thank you, Wes.

25 Are there any questions for Wes?

1 Do I have a motion?

2 COMMITTEE MEMBER PEACE: I would like to move
3 Resolution Number 2006-42, revised.

4 COMMITTEE MEMBER WIGGINS: Second the motion.

5 CHAIRPERSON MULÉ: We have a motion by Board
6 Member Peace, seconded by Board Member Wiggins.

7 Donnell, please call the roll.

8 SECRETARY DUCLO: Members Peace?

9 COMMITTEE MEMBER PEACE: Aye.

10 SECRETARY DUCLO: Wiggins?

11 COMMITTEE MEMBER WIGGINS: Aye.

12 SECRETARY DUCLO: Chair Mulé?

13 CHAIRPERSON MULÉ: Aye.

14 That passes unanimously and that will also go on
15 fiscal consent.

16 Okay, Wes.

17 (Thereupon an overhead presentation was
18 presented as follows.)

19 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

20 MINDERMAN: Last but not least, the last item here
21 is consideration of approval for the environmental
22 services contract for the program in Southern California.

23 --o0o--

24 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

25 MINDERMAN: Different picture. Essentially, the

1 same summary as before except Southern California defined
2 as counties located to the south of and including San Luis
3 Obispo, Kern, and San Bernardino.

4 So based on that, staff are recommending that the
5 Board award the correct to Remedial Construction Services
6 L.P. with an initial allocation of \$1.5 million from
7 fiscal year 2005/2006 appropriation.

8 CHAIRPERSON MULÉ: Any questions?

9 Yes, Board Member, Brown.

10 BOARD CHAIR BROWN: Wes, I have a quick question.

11 In the contracts, they are divided equally between
12 northern and Southern California, with the amount of site
13 cleanup potentially and stormwater cleanup, in Southern
14 California. Possibly, more significant is do the funds go
15 with the contractor if they go down and help clean up
16 Southern California sites? Or are the monies divided,
17 north and south?

18 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

19 MINDERMAN: As Scott indicated earlier, typically
20 on those stormwater projects, they are very specific.
21 They require a lot of agency expertise.

22 Those have been managed under grants, so the
23 stormwater projects that we have done under the program,
24 historically, have been grants to those public entities
25 down in Southern California.

1 BOARD CHAIR BROWN: And the answer to my
2 question -- My question, specifically, is does the award
3 of the contract go with the contractor if the northern
4 California cleans a site in Southern California, do they
5 take the funds from their contract to Southern California
6 cleanup?

7 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

8 MINDERMAN: Yes, they do.

9 BOARD CHAIR BROWN: Okay.

10 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

11 MINDERMAN: Sorry.

12 Thank you.

13 CHAIRPERSON MULÉ: Great question.

14 I was going to ask that a little bit differently.
15 I was going to ask that if we have cleanups that exceed
16 the amount of 1.5 or 1.75 million in Southern California,
17 how would we handle that?

18 So you're saying the contractor from northern
19 California would then go down and provide cleanup
20 services?

21 SOLID WASTE CLEANUP PROGRAM SECTIONS SUPERVISOR

22 MINDERMAN: That is correct.

23 Thank you. Okay.

24 Any other questions for Wes?

25 Do I have a motion?

1 COMMITTEE MEMBER PEACE: I would like to move
2 Resolution Number 2006-40, revised.

3 COMMITTEE MEMBER WIGGINS: Second the motion.

4 CHAIRPERSON MULÉ: And would you call the roll.

5 SECRETARY DUCLO: Members Peace?

6 COMMITTEE MEMBER PEACE: Aye.

7 SECRETARY DUCLO: Wiggins?

8 COMMITTEE MEMBER WIGGINS: Aye.

9 SECRETARY DUCLO: Chair Mulé?

10 CHAIRPERSON MULÉ: Aye.

11 And that passes unanimously, and we will put that
12 on fiscal consent as well.

13 Okay. Our next item is --

14 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

15 MANAGER WALKER: Thank you.

16 Scott Walker. Permitting and Enforcement.

17 Again, I will give you a brief overview of the
18 farm and ranch cleanup abatement grant program.

19 And Item E is the Consideration Of The Grant
20 Awards For The Farm And Ranch Solid Waste Cleanup And
21 Abatement Grant Program for the third cycle of fiscal year
22 2005/2006.

23 After my overview, Carla Repucci, who really is
24 the one who really keeps this program, she's going to
25 close it out with the actual cycle and the grants that

1 we've received and are recommending.

2 (Thereupon an overhead presentation was
3 presented as follows.)

4 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

5 MANAGER WALKER: Senate Bill 1330, Lockyer 1997.

6 This required the Board to establish a grant program under
7 which cities and counties may seek financial assistance
8 for cleanup of illegal disposal sites on farm or ranch
9 property.

10 The intent here was to provide assistance to
11 innocent farm and ranch property owners that were -- that
12 had illegal dumping on their property and they had nothing
13 to do with it, through the application by local agencies
14 for grant funding, so the private parties would go to the
15 local agencies, would go to us under the funding of this
16 program.

17 The fund here is annually appropriated up to
18 \$1 million. It's split-funded from the IWMA -- or
19 typically split-funded from the IWMA's tire and used oil
20 funds.

21 And this is different from the solid waste trust
22 fund because it's annually appropriated. So each year, if
23 we don't -- if it's not spent, then it reverts back
24 proportionally into the various funds that it came out of.

25 --o0o--

1 REMEDICATION, CLOSURE, & TECHNICAL SERVICES BRANCH

2 MANAGER WALKER: One of the recent -- initially in
3 the program it was difficult to get -- We knew there were
4 a lot of sites out there, but it was difficult to get
5 participation.

6 And in 2002 Senator Wesley Chesbro carried Senate
7 Bill 1328, and this expended the funding limits to 50,000
8 per site and 200,000 per fiscal year, per applicant. It
9 also expanded the potential grantees eligible to Indian
10 tribes and resource conservation districts. And this bill
11 resulted, and basically in the last two years, they were
12 fully utilized. And to date, the program was started in
13 1999.

14 Eighty-two grants have been awarded to clean up
15 about 285 sites and the total funding amount approved was
16 3,234,467, and that's not including the grants we have on
17 the docket for today.

18 --o0o--

19 REMEDICATION, CLOSURE, & TECHNICAL SERVICES BRANCH

20 MANAGER WALKER: Program implementation. The
21 statute required us to adopt regulations. The Board did
22 in 2000, and those regulations are in Title 14, CCR.

23 Grant scoring process and program criteria are
24 brought forward to the Board, periodically, to update. We
25 have Web-based application materials. We also have a

1 marketing and outreach plan that the public information
2 office helped us with that we work with.

3 The preference is to applicants in the scoring
4 with innovative and cost-effective programs to discourage
5 illegal disposal. And the property is actually currently
6 used for farm and ranch activities, and the cleanup is on
7 private property. The bill doesn't preclude public.
8 There are public property that is used for farming and
9 ranch and also the access of property on public
10 right-away -- right-away, I'm sorry.

11 --o0o--

12 REMEDIATION, CLOSURE, & TECHNICAL SERVICES BRANCH

13 MANAGER WALKER: Eligibility for funding. The
14 regulations and statutes set out specifically that the
15 site must be an illegal disposal site and is on farm or
16 ranch property; the party which deposited the waste cannot
17 be identified, located, or pay for timely cleanup; and the
18 owner must sign an affidavit, under penalty of perjury,
19 stating that he or she did not authorize the deposition of
20 the waste.

21 And this is reviewed by the applicant and program
22 staff. And then finally the remedial action is needed to
23 protect health and safety and the environment.

24 Project activities funded typically include the
25 removal and proper disposal of recycling of solid waste;

1 tires; household hazardous waste; also site security
2 measures; fencing.

3 And this program is a really good tool for the
4 Board in dealing with a -- the large problem of illegal
5 dumping on more rural properties and because of its --
6 essentially is not cost recovery -- Cost recovery is not
7 acquired against the property owner who is innocent. It
8 provides those innocent property owners with a way to deal
9 with this problem, without having to incur substantial
10 costs and issues with regard to finishing them.

11 The cleanup program is a little higher standard of
12 cost recovery waiver. There's a cost recovery waiver
13 provision, but it's a higher threshold to try to meet, and
14 that's why this program is really good for those
15 situations.

16 We've also found that having this program helps us
17 identify those sites because parties are more willing to
18 bring them to our attention, us and the local agencies.

19 --o0o--

20 REMEDICATION, CLOSURE, & TECHNICAL SERVICES BRANCH

21 MANAGER WALKER: So I think now what I would like
22 to do is hand it off to Carla, who will present the
23 applications for this past cycle.

24 --o0o--

25 CHAIRPERSON MULE: Thank you, Scott. Good

1 morning, Carla.

2 MS. REPUCCI: Good morning, Chair Mulé and
3 Committee Members and Board Member Brown.

4 My name is Carla Repucci, and for this particular
5 quarter, we have 4 applications that are requesting the
6 cleanup of 14 sites. The applications were reviewed for
7 eligibility, scored, and are being recommended for
8 approval today. Approval of those applications, as
9 recommended, would leave \$486,542.32 in the fund. The
10 sites that are being requested for cleanup are in the
11 counties of Sacramento, Trinity, San Diego, and Riverside.

12 Removal of the waste from these sites will restore
13 the properties back to their natural state and remove the
14 threat to public health and safety and the environment.

15 Each of the four applicants have indicated efforts
16 to prevent waste from being redeposited. These efforts
17 include fencing, earth and berms, gates, the posting of
18 signs, and increased surveillance.

19 Agenda Item E is for the consideration of four
20 grant applications for farm and ranch solid waste cleanup
21 and abatement grants.

22 Each application meets the eligibility set forth
23 by the statute.

24 Therefore, staff recommends the Board adopt
25 Resolution 2006-43, authorizing the award of up to

1 \$151,312 for the grant applications from the resource
2 conservation of Florin and Trinity County, the County of
3 San Diego, and the Cabazon Band of Mission Indians and
4 directing staff to develop and execute grant agreements.

5 I would be happy to answer any questions.

6 CHAIRPERSON MULÉ: Thank you, Carla.

7 Do we have any questions for Carla?

8 Yes, Board Member Wiggins.

9 COMMITTEE MEMBER WIGGINS: Yeah. I have a couple
10 of questions.

11 Is there an annual limit on these grants?

12 MS. REPUCCI: We have up to \$1 million available
13 each year, and each applicant is allowed to apply for up
14 to \$200,000 and up to \$50,000 per site.

15 COMMITTEE MEMBER WIGGINS: Okay.

16 And then where is Florin?

17 MS. REPUCCI: The Florin Resource Conservation
18 District. Conservation districts are kind of a
19 quasi-governmental special district --

20 COMMITTEE MEMBER WIGGINS: I know what they are.

21 MS. REPUCCI: -- and they have particular
22 boundaries. This particular site is over by the Kiefer
23 landfill.

24 COMMITTEE MEMBER WIGGINS: The what?

25 MS. REPUCCI: Just south of here.

1 COMMITTEE MEMBER WIGGINS: Just south of --

2 MS. REPUCCI: Of the Board -- of Sacramento. It's
3 kind of rural. It's on the way to Rancho Murietta.

4 COMMITTEE MEMBER WIGGINS: That's fine. I just
5 never heard of it.

6 And then on the Cabazon Band of Mission Indians,
7 it says that the tribal housing security will be increased
8 to discourage further dumping. But it doesn't say what
9 they are going to do to block it off.

10 What are they going to do?

11 MS. REPUCCI: This particular site is down the
12 driveway. There are three residential houses there, so as
13 far as, you know, blocking it off, it's -- it's on these
14 people's property. It's on tribal land, but it's
15 allotments. So it's been there for quite some time, this
16 site, so I think just the fact that these houses are now
17 there, they don't anticipate any future dumping at this
18 site.

19 COMMITTEE MEMBER WIGGINS: Because the houses are
20 new?

21 MS. REPUCCI: Yes, three of the houses are new.

22 COMMITTEE MEMBER WIGGINS: Okay. I see.

23 Thank you.

24 CHAIRPERSON MULÉ: Okay. And I'm sorry.

25 Where was the Cabazon site?

1 MS. REPUCCI: Cabazon is Riverside, I believe.

2 CHAIRPERSON MULÉ: Riverside County. Yeah. Just
3 wanted to check -- double check on that. Okay.

4 Any further questions?

5 If not, do I have a motion?

6 COMMITTEE MEMBER PEACE: I would like to move
7 Resolution Number 2006-43.

8 COMMITTEE MEMBER WIGGINS: Second the motion.

9 CHAIRPERSON MULÉ: We have a motion by Board
10 Member Peace, seconded by Board Member Wiggins.

11 Donnell, would you please call the roll.

12 SECRETARY DUCLO: Members Peace?

13 COMMITTEE MEMBER PEACE: Aye.

14 SECRETARY DUCLO: Wiggins?

15 COMMITTEE MEMBER WIGGINS: Aye.

16 SECRETARY DUCLO: Chair Mulé?

17 CHAIRPERSON MULÉ: Aye.

18 That will go on fiscal consent.

19 Thank you very much.

20 And our final item of the day, Howard.

21 DEPUTY DIRECTOR LEVENSON: Before we get on to the
22 final item, I just want to thank staff for that
23 presentation. I think it was important to get that
24 overview. And note to all of you that these programs give
25 the Board great exposure and positive feedback. They are

1 difficult projects to bring to fruition with all the
2 legalities, enforcement, and site access and so on, but
3 once we get all that together, they really are a credit to
4 the Board.

5 And we do have various public events associated
6 with some of the them when they are big enough and there's
7 demand from the locals.

8 So it's something you should be very pleased with.
9 Our last item of the day --

10 COMMITTEE MEMBER PEACE: I just wanted to say
11 thank you and your staff. This was great for the overview
12 and everything here.

13 One little thing I was looking through, here, we
14 have, like I said, the Indians in Riverside County. Then
15 we have a San Diego County one that was 2000 tires.

16 I know the farm and ranch is a little bit
17 different, but I'm going to start looking at those things
18 that have tires in San Diego County and in Riverside
19 County, because we tried to get those two counties to get
20 one of our tire enforcement grants and they did not go
21 along with it.

22 So I'm really going to start looking. I don't
23 know if we want to keep cleaning up tire piles in counties
24 where they are not doing their tire enforcement.

25 DEPUTY DIRECTOR LEVENSON: Okay. The last item is

1 our annual overview of the LEA evaluation program. And so
2 it's shifting gears from cleanup to our relationship with
3 the local enforcement agencies, how we oversee them, how
4 we assist them, and how we evaluate them.

5 Like we do with the other programs, we're going to
6 provide you with an overview so you get a flavor of the
7 entire framework that we operate under with our partners
8 in the local enforcement agencies.

9 So I have asked staff to prepare and present some
10 background information. We are going to have a tag team.

11 Sharon Anderson, who's manager of the LEA support
12 services branch, is going to provide an overview of the
13 entire framework.

14 And then Gabe Aboushanab, who's a supervisor of
15 the program, will give you the update on the current --
16 the third cycle of LEA evaluations.

17 So I will turn it over to Sharon.

18 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

19 Thank you, Howard.

20 Good day, Committee Members and Chair Mulé and
21 Board Member Margo Brown. Welcome.

22 (Thereupon an overhead presentation was
23 presented as follows.)

24 As Howard stated, I am Sharon Anderson, and I
25 manage the LEA support services branch, and while the

1 information about the evaluations program is concrete, I'm
2 going to actually give you sort of like a general picture
3 that is a little less concrete to show you how we do work
4 with local government.

5 And while the branch does handle several programs
6 today, I'm here, basically, to show you the genesis of how
7 the Board does business in regulating solid waste
8 facilities and operations in the state.

9 --o0o--

10 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: Our
11 legislative mandates chaptered in 1989 require that local
12 enforcement agencies act as the primary body for enforcing
13 state minimum standards; developing solid waste facilities
14 permits; commenting on closure plans; and monitoring
15 post-closure land use at closed sites; among other job
16 duties.

17 And back in 1990, when all programs were starting
18 implementation for AB 939, we understood the legislature's
19 recognition of placing all these functions at the local
20 level, because there existed a cadre of very trained staff
21 called registered environmental health specialists already
22 located within environmental health departments, and they
23 would be a good fit for the job.

24 So in setting up this system of local control, the
25 legislature also recognized that the state needed to be a

1 position to provide oversight of the local government.
2 It's similar to what the federal program does with the
3 RICRA Subtitle D program with us, although their oversight
4 probably isn't quite as extensive as our oversight of
5 local government here.

6 And it also required the Board to set up its own
7 permit inspection and enforcement program as well as
8 certify all local enforcement agencies that occurred back
9 in the early '90s, for the most part, with only a couple
10 of local enforcement agencies asking for certification
11 since then.

12 In its wisdom, though, the legislature also asked
13 the Board to evaluate LEAs once every three years. We
14 don't just leave them certified and no oversight. So a
15 little bit later Gabe will give you some great information
16 regarding the evaluations as they stand. And please know
17 that much of what the Permitting and Enforcement division
18 does, in its daily routine, can feed into the evaluation
19 program from the 18-month state inspections that Mark de
20 Bie's branch provides, as well as the closure inspections
21 and CIA work and the data that the staff enters into the
22 Solid Waste Information System, or SWIS.

23 --o0o--

24 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
25 What I have done here, just as a snapshot of the vital

1 roles that our LEAs provide, is outline the numbers in an
2 actual collection of duties that fall to the LEAs. It
3 seems like a lot. Anyhow...

4 Some jurisdictions have just one person
5 responsible for the program. Others have well over ten
6 staff dedicated to these functions. Altogether, all the
7 LEA staff in the state contribute to the inspection of all
8 sites in their jurisdictions; permit oversight and
9 processing complaint management; proper enforcement of
10 noncompliers. CEQA input is responsible -- or lead
11 agency, and many other jobs.

12 As the waste stream in priority shifts, so does
13 the role of the local enforcement agency. Currently, LEAs
14 need to assure that the recent changes in the universal
15 waste laws are carried out within their jurisdictions, for
16 example.

17 --o0o--

18 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
19 Don't try to understand this, but it's sort of a.

20 CHAIRPERSON MULÉ: No quiz?

21 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
22 It's my org chart.

23 In order to keep local enforcement agencies at the
24 top of their game, I've shown this slide to show how the
25 Waste Board and LEAs stay in close communication.

1 In order to understand how we all work together,
2 all parties typically have to understand the setup of each
3 other's reporting and communicating structure.

4 So off to the right, you can see that local
5 enforcement agencies fall under environmental health
6 documents or under the cities typically under LEA program
7 manager. Most cities -- A couple cities do have
8 environmental health departments. Some do not. And then
9 the LEA program manager, of course, has LEA staff.

10 And then this feeds into how each one of them has
11 their own organizational structure as staff or as
12 directors or as managers to speak in group and communicate
13 information to us as well as amongst themselves.

14 So you will see that the California Conference of
15 Directors of Environmental Health use -- The directors use
16 that as their main communication tool, and they have also
17 created several committees, one of which is the Solid
18 Waste Policy Committee to discuss and exchange issues and
19 business practices.

20 In that, the discussion typically falls on policy
21 development or policy issues.

22 And Howard mentioned earlier that we do work in a
23 bimonthly arrangement with them and we attend a lot of the
24 regional meetings as well as the Solid Waste Policy
25 Committee meetings.

1 And then one of the strongest communication
2 methods that we have is the Enforcement Advisory Council,
3 which serves as the long-standing request of the
4 Integrated Waste Management Board since 1983.

5 The EAC acts as the technical advisory body for
6 the Permitting and Enforcement division and, hence, the
7 Board, on matters of just how things are working in the
8 implementation of regulations, guidance and policy,
9 and feed into policy.

10 Many of the EAC members also serve as chairs of
11 the LEA round tables, as Howard mentioned earlier, for a
12 further method of working closely with local government.
13 We, as staff, also attend the local LEA round tables, and
14 we share information of local issues of statewide
15 concerns. So we bring back information and exchange
16 information at that point.

17 You can see by the arrows, I have tried to show
18 all the routes of communication that the Board and our
19 local enforcement agencies work hard to keep open. And by
20 understanding all the channels that can be used, it helps
21 us know who we are talking to and their respective roles
22 and functions.

23 CHAIRPERSON MULÉ: Sharon, the bottom line is you
24 guys do a good job of communicating. You really do. You
25 do.

1 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

2 Thank you.

3 --o0o--

4 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: One
5 of the other things that I wanted to provide, I had
6 indicated that LEA programs are typically housed in a
7 larger Department of Environmental Health.

8 Take a look at some of the other programs that are
9 expected of the Environmental Health Departments, just to
10 name a few.

11 Some programs do receive funding from the state,
12 in part. Others are fee-based. For the most part,
13 though, the LEA program recovers costs at the local level
14 through fees or other methods.

15 --o0o--

16 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
17 However, the legislature does allow for \$1.5 million out
18 of the Integrated Waste Management Account to be to set
19 aside for LEA grants on an annual basis, which are
20 noncompetitive block grants, managed by delegated
21 authority to the executive director to the Waste Board.
22 And for those LEAs who choose to take on tire enforcement,
23 the Board provides \$6 million out of the tire fund.

24 --o0o--

25 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: I'm

1 going to talk a little bit as partnership as the wheel.

2 A little history behind the Board's relationship
3 with LEAs. This is the juicy part. As I mentioned
4 earlier, the Board certifies LEAs, and this process
5 occurred in the early 1990s.

6 And during our new oversight role established in
7 1990 with AB 939, we experienced successes and challenges.

8 After conducting an initial round of evaluations
9 and after finding out a great deal about each other's
10 strengths and approvables -- that's another way to say
11 weakness -- the executive leadership of the Board and the
12 CCDEH recognize that both sides needed to talk about key
13 issues of mutual concern.

14 And after about a year of facilitated meetings,
15 the Waste Board staff and management and key individuals
16 from the CCDEH, the California Conference of Directors of
17 Environmental Health, and the LEA program management staff
18 crafted a charter that outlined both parties' issues and
19 methods we would take to continue resolutions of issues.
20 It was called Partnership 2000, at the time. We have
21 carried that on since then.

22 On that note, the annual LEA partnership
23 conference came to fruition, along with the Board's
24 dedication to comply with PRC 43217, Public Resources Code
25 43217 that, in essence, states the role of the Board

1 should be training, guidance, and technical assistance for
2 LEAs in that area.

3 Since then, the Permitting and Enforcement
4 division has housed a section for training, dedicated
5 staff to it, and has recently expanded the Board's
6 approval to fund the program at an increased rate to more
7 systematically include operators to provide for more
8 statewide compliance.

9 On top of that partnership and in the spirit of
10 evaluating our own programs, Board staff sought feedback
11 on how we conduct our evaluation program. I'll explain
12 that in a second. We did that the in the late '90s.

13 --o0o--

14 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
15 This is an interesting slide that shows that since our
16 efforts to continuously improve and establish a solid
17 working relationship with LEAs, it would be a good point
18 to show how the violations of solid waste facilities have
19 declined over time, of the efforts we undertake have a
20 final benefit to the people who live here. While the
21 overall tonnage of waste and regulating materials has
22 increased, our abilities to spread the word about
23 compliance have had untold benefits, as you can see.

24 We don't stop there. We do continue to improve
25 all our programs and efforts.

1 --o0o--

2 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: For
3 instance, we found that outside of the formal evaluation
4 program, that Gabe will talk about in a second, we have
5 improved upon the Board's ability to help local
6 enforcement agencies when their performance of their
7 specific roles might be experiencing downward trends. We
8 call this effort "triggers," not after the horse, but as
9 the system that helps trigger the Board's offer of
10 assistance outside the evaluation cycle.

11 Since we depend on LEAs for all day-to-day
12 activities, our ability to detect these performance
13 hiccups becomes a key function so that LEA responsibility
14 are delivered consistently, outside of the evaluation
15 cycle.

16 We've often been asked whether LEAs make an effort
17 to improve performance upon the onset of an evaluation,
18 and what do we do when it's not evaluation time? That's a
19 very common question. I'm getting ready for an
20 evaluation. I think I'll do really good for the last
21 year. That's pretty much gone away because of the method
22 that that has been agreed upon by all parties in a
23 negotiated setting, that we use triggers.

24 --o0o--

25 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: And

1 just -- This is the part I wanted to get to is the Board
2 is not immune to feedback on our own programs. This is
3 what we did in the late 1990s. We asked for -- This is
4 from an old slide show. Sorry about that. Lots of sounds
5 that are broadcasted throughout the entire world.

6 We're not immune to feedback. We did receive, in
7 1998, a lot of information about how run our program. And
8 so with what we've done -- you can read that at your
9 leisure. It will be on the Board. What we did when we
10 got that feedback is we made a bunch of internal
11 adjustments, and those adjustments have remained in place
12 since the first cycle, and Gabe will be explaining our
13 current process in a second.

14 But I do wish to point out that our evaluation
15 program has become for more objective and less
16 subjectively focusing strictly on data.

17 In other words, we're identifying the gaps in the
18 programs and clearly communicate those gaps, following
19 that up with negotiations and facilitated discussion to
20 determine the underlying causes of why there was a gap in
21 the data.

22 For instance, if we find that a local enforcement
23 agency is only conducting 30 of 90 inspections, there's a
24 gap of 60 inspections. Why does that exist? Is it
25 because they lack staff? Is it because they don't want to

1 do it? Is it because they just didn't mail them into us?
2 What is that? And then we find out later what is the
3 route of the work plan that the LEAs need to be on after
4 that.

5 And then also we do post our program and processes
6 on the Web site for easy access and so that LEA management
7 can know what to expect.

8 I'm going the click on it really quick so you can
9 get a picture of what other people see when we go there.
10 There it is.

11 This is an entire Web site designed for the local
12 enforcement agency evaluations. On the left-hand side --
13 it's lopped off on one side but on the other side we have
14 the process summary. And when you prepare for an
15 evaluation, information in SWIS, who to contact, just
16 anything you'd need to know if you are getting ready.

17 We've embedded our processes in stone. It's a
18 very concrete process. It doesn't vary much.

19 So on that note, I would like to introduce the
20 program supervisor, Gabe Aboushanab to take us down the
21 homestretch.

22 CHAIRPERSON MULÉ: Thank you, Sharon.

23 Good morning, Gabe.

24 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

25 SUPERVISOR ABOUSHANAB: Thank you, Madam Chair and

1 Committee Members.

2 Thank you, Sharon.

3 I would like to take a few minutes and summarize
4 for you the LEA evaluation results.

5 --o0o--

6 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

7 SUPERVISOR ABOUSHANAB: Staff utilized statute PRC
8 Section 43214 to make sure if an LEA is or is not
9 fulfilling their responsibilities, and there are six ways
10 to do that, as outlined by statute.

11 Staff would look to see if the LEA has failed to
12 exercise due diligence in the inspections of solid waste
13 facilities and disposal sites. They would look and see if
14 results of inspections were intentionally misrepresented,
15 omitted, and that sort of thing.

16 We also look at and see if the LEA has failed to
17 prepare, themselves, or cause to be prepared,
18 permit-related documents and closure and post-closure
19 maintenance plans.

20 --o0o--

21 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

22 SUPERVISOR ABOUSHANAB: And the fourth is an
23 assessment to see if the LEA has approved the permits or
24 permit revisions or closure plans not consistent with
25 statute; if the LEA has failed to take appropriate

1 enforcement action; and also if the LEA has failed by
2 taking actions inconsistent or unauthorized by statute and
3 regulations.

4 --o0o--

5 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

6 SUPERVISOR ABOUSHANAB: Now, in order to provide
7 you with a true sense of progress, please note on the
8 current slide that -- We have to go back one more. That's
9 the same one.

10 --o0o--

11 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

12 SUPERVISOR ABOUSHANAB: Sorry about that.

13 Please be aware, in the third cycle we have that
14 started in May 2003, statute says that we must do LEA
15 evaluations once every three years. So essentially, we
16 should conclude the cycle in May of 2006, the current
17 year.

18 Today, you will find that 51 of the 55 LEAs will
19 be completed in the three-year timeframe.

20 However, four will be at various steps in the
21 process, and they will be concluding shortly, during the
22 early summer.

23 So although it's true that four evaluations will
24 probably hold us back from completing cycle in time,
25 please make note that the last cycle, the second cycle,

1 took approximately five years to conclude. So we're a lot
2 better than we used to be.

3 --o0o--

4 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

5 SUPERVISOR ABOUSHANAB: Now, the slide before you
6 here summarizes what findings staff actually made as far
7 as the third cycle went.

8 So out of the 48 evaluations which we concluded so
9 far, we found 10 LEAs failed to exercise due diligence in
10 the inspections of facilities and disposal site, out of
11 the 48 we looked at.

12 We also found that 12 LEAs failed to prepare, or
13 cause to be prepared, permits, permit revisions, or
14 closure maintenance plans. And we found that seven LEAs,
15 indeed, failed to take appropriate enforcement action.
16 And three LEAs took actions that were inconsistent by
17 statute -- not necessarily unauthorized in our case. They
18 just didn't follow the letter of the section, and it's a
19 quality assurance thing. They didn't exactly follow the
20 steps in accomplishing a task.

21 --o0o--

22 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

23 SUPERVISOR ABOUSHANAB: Now, if we look at what we
24 have in completed state audits, so far, we see that Board
25 staff, indeed, completed 48. And if I may direct you to

1 the green part -- the dark green -- it represents 26 LEAs
2 which were found to be fulfilling their duties and
3 responsibilities, or 54 percent of the numbers, the 48
4 that we've done so far.

5 You will also find 6 LEAs, or 13 percent, were
6 found fulfilling most of their duties and
7 responsibilities. These usually involve a missed
8 inspection or something minor, so they are substantially
9 in compliance.

10 And you will find 16 LEAs, approximately
11 33 percent, were found not to be fulfilling their duties
12 and responsibilities. And these LEAs required work plans
13 to accomplish the compliance task that were missing in
14 their jurisdiction.

15 --o0o--

16 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

17 SUPERVISOR ABOUSHANAB: Now, I would like to
18 mention that the first step to correct LEA performance
19 requires the LEA to develop an evaluation work plan, which
20 addresses the program audit findings. And the work plans
21 have, indeed, proven themselves as a vital tool which
22 resolves most LEA performance and compliance problems.

23 And the primary evaluation follow-up activity
24 consists of staff monitoring work plans at regular
25 intervals. Basically every three months we check their

1 progress on the tasks. And once the LEA meets those tasks
2 in their work plan, we deem the process complete for that
3 cycle.

4 And if you look quickly at the slide -- and
5 remember, I mentioned the 16 LEAs on work plans -- to
6 date, we have 7 LEAs have completed all the tasks they
7 have to do. Three LEAs are working on the tail end of
8 meeting those tasks, so we have three that remain -- some
9 work remains to be done, and the six left are in various
10 steps in developing the work plan, itself, or getting it
11 approved here at the Board.

12 --o0o--

13 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

14 SUPERVISOR ABOUSHANAB: Now, I thought to give you
15 a sense of trends in LEA performance, I put in a slide
16 from the last cycle for you, and those audits for the
17 state, it shows us we had 56 LEAs at the time. And then
18 looking again at the entire cycle, 50 percent of all LEAs
19 were found, indeed, to be fulfilling all responsibilities.
20 So that would be roughly 28 out of 56, if not exactly.

21 And we found that 25 percent were fulfilling most
22 duties, and again, by "most duties" we mean whatever was
23 missed was incidental, so there was no work plan
24 necessary. It was taken care of at the time.

25 And 25 percent of LEAs were, indeed, on work plans

1 and had to meet the requirements of work plans and have
2 completed them.

3 And this concludes my portion of the item, and I
4 thank you.

5 And I will turn it back to Sharon.

6 CHAIRPERSON MULÉ: Thank you, Gabe.

7 --o0o--

8 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: And
9 if not already mentioned, if Board Member Peace was doing
10 the math, there were a larger number of LEAs on work plans
11 so far for this cycle. I know you caught it.

12 And one of the differences is that of those 55
13 jurisdictions that we monitor, we have seen about 15
14 department heads or program managers leave in this last
15 cycle to either pursue other jobs or retire.

16 With that, we've lost a great institutional memory
17 and an ability to do this. So what we've done is we've
18 stepped up our ability and our level of assistance to the
19 staff in the field, the local enforcement agencies, to
20 walk them through -- walk new managers through what the
21 processes are to do the role there, the local government.

22 So we'll be seeing some new faces on the
23 Enforcement Advisory Council, because George Nakamura,
24 who's been a long-standing member of the Enforcement
25 Advisory Council, is now being shifted over to land use

1 planning. So we'll see some changes there as well.

2 So with every change, we step up to the plate and
3 work in concert, as they do with us when we have changes.

4 COMMITTEE MEMBER PEACE: Well, Sharon, you were
5 reading my mind because that was the question I was going
6 to ask you.

7 Have you seen to any, like, cutbacks? I know when
8 we were going through the sunshine (sic) thing, you were
9 saying they had cutbacks in their programs, funding
10 cutbacks and things.

11 Are you seeing some of that around the state?

12 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
13 Well, actually, that was one of the key areas where we saw
14 a transition of leadership. We saw a new program manager
15 step in. While Art Aguirre has continued to be the
16 director of environmental health there, we've seen a brand
17 new program manager step in. And so we understand that
18 those sorts of things happen.

19 I don't know if I've seen much attrition to that
20 respect, but as you know, environmental health is one of
21 the toughest programs to sell at the local level because
22 it doesn't necessarily generate fees and it doesn't make
23 roads. It just provides for, you know, the underlying
24 environmental health.

25 COMMITTEE MEMBER PEACE: Thank you.

1 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

2 On that note, I will wrap up and then we'll get
3 into some discussion.

4 Just like to show you a couple slides that depict
5 how we continue to provide programs assistance. I've
6 already described a little bit of the collaboration we do
7 with the California Conference of Directors of
8 Environmental Health as well as our sponsorship of the
9 Enforcement Advisory Council.

10 A key role for us, the annual conference -- which
11 I hopes everybody attends. Put it on your calendar. It's
12 August 1, 2, and 3 in Monterey.

13 And then we also have the LEA equipment loan
14 program where we loan out scientific equipment to the LEAs
15 so that they can better perform their job, if they can't
16 afford their own equipment.

17 And the legislature had put that in the statute,
18 in 43217, that we establish the program, and we do.

19 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

20 Other areas where we continue to work hard are -- Solid
21 Waste Information System is one of the, you know, rubies
22 that we have amongst the jewels in the LEA central areas
23 as well as provided for all Board viewing.

24 Many of you received the all-LEA e-mails that we
25 sent out, and that's our way of keeping in very close

1 communication with local enforcement agencies. As a
2 matter of fact, the minute the Board meeting is over next
3 week, we'll send an updated review of what the committee
4 and Board has done that might be of interest to local
5 enforcement agencies so they can stay on top of their
6 world. And then of course the round tables that we have.

7 So with that, if there's -- we're currently
8 looking -- We're always looking for feedback on our
9 programs and we're looking for dialogue from local
10 enforcement agencies as well as from anybody, if they see
11 areas that we think that we can do better in or anything
12 like that.

13 So I will just conclude the presentation and we'll
14 open it up and have some dialogue.

15 CHAIRPERSON MULÉ: Do you have any other questions
16 for staff?

17 COMMITTEE MEMBER WIGGINS: I do.

18 CHAIRPERSON MULÉ: Go right ahead, Board Member
19 Wiggins.

20 COMMITTEE MEMBER WIGGINS: The LEA gets reimbursed
21 from various funds. Is an LEA being obliged to exist --
22 Does local government absorb any costs for the LEA?

23 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
24 Yes, it does.

25 They are allowed to recovery fees. The statute

1 says that they can set up any method that they need to
2 recover fees for running their programs. So if it costs X
3 amount of dollars to fund four staff and they have a
4 workload analysis that passes by Gabe that says that their
5 workload requires four staff, then they either have to go
6 out and collect fees for fee-for-service --

7 COMMITTEE MEMBER WIGGINS: From whom?

8 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

9 From the regulated entities. They literally will send a
10 bill through their administration, I guess. Then a bill
11 will come to either a private operator where the private
12 operator will pay a surcharge, you know, fee for service,
13 or if it's a public entity, a publicly owned facility
14 within the jurisdiction, then there will just be a -- A
15 chunk of the fees will be allocated over to pay for the
16 local enforcement agency program.

17 And it's only for when those jurisdictions request
18 to be a local enforcement agency that they have to do
19 that, so there's only 55 of them, right now, within the
20 state, plus the Board's LEA program.

21 What am I not tackling here?

22 COMMITTEE MEMBER WIGGINS: If they are not working
23 with the jurisdiction, they are out in the field doing
24 other inspections. How do they get fees from an agency to
25 repay them their time?

1 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

2 Let's just pretend, for instance, that you have a county
3 LEA and the facility is in a city. We'll just pretend
4 that the transportation is over in the city.

5 What the county government will do will assess a
6 fee to the city jurisdiction for the cost of what it takes
7 to recover the fees for the inspection, whether it be just
8 a percentage of the function of the person or if it's
9 hourly fees. It just depends on whatever jurisdiction has
10 set up for getting back their money to pay for the
11 program.

12 COMMITTEE MEMBER WIGGINS: And if it's a private
13 land?

14 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: The
15 closed, legal, and abandoned situations are a lot tougher
16 to recover funds for, so what a jurisdiction will do in
17 that case is tap into a general fund to pay for those
18 trickier areas, but if it's a privately owned facility
19 like a waste management incorporated facility, then the
20 fees -- There will just be an assessment from the county
21 or city's LEAs program through their own administration to
22 the owner of the facility. And they have to pay the fees.

23 Our own Board as EA recovers fees for closed site
24 inspections or for private facility inspections as well,
25 and it's based on an hourly rate.

1 COMMITTEE MEMBER WIGGINS: Okay. Then I have
2 another question.

3 When the Board takes over an LEA's jurisdiction,
4 you know, one thing is what is the cost to the Board? But
5 the other thing is how do we replace that LEA with another
6 LEA so that we get out of the business of being the
7 enforcer?

8 DEPUTY DIRECTOR LEVENSON: That's a decision that
9 the local governing body, usually the board of
10 supervisors, has to make.

11 If they choose to -- If either the Board
12 de-certifies a local enforcement agency or for some reason
13 they choose not to have a particular program function as
14 the local enforcement agency, then we will either take
15 over and become the enforcement agency, or if the board of
16 supervisors, and in some cases the city council, decides
17 that they want to have another program perform as the LEA,
18 they can do that at their discretion.

19 Usually it's going to be cheaper for them to do
20 that in the long run. But they do have to go through a
21 new certification process, come back before the Board, and
22 you have to be satisfied that they have proper staffing
23 and budget and training and so on.

24 They also -- There are opportunities for joint
25 powers agreements where several counties can join

1 together, and we have several of those where there's two
2 or three counties working together with one LEA program.
3 And then, again, comes to the Board for certification and
4 approval.

5 COMMITTEE MEMBER WIGGINS: Well, if the Board
6 finds that the LEA is inadequate and takes over their
7 jurisdiction, and let's say it's for some reason, you
8 know, through the Department of Health, how do we ever get
9 out of the business of being the LEA?

10 DEPUTY DIRECTOR LEVENSON: We have -- And in a
11 number of circumstances we have continued to function as
12 the LEA for several years.

13 Most recently, in 2004, we took over as the
14 enforcement agency in San Luis Obispo County.

15 We would still continue to work with all of the
16 locally elected officials to say if you desire to take the
17 program back, we're certainly willing to work with you in
18 terms of structuring it and making sure that there's
19 something that can be approved by our Board.

20 COMMITTEE MEMBER WIGGINS: What is the burden,
21 then, on the Board?

22 DEPUTY DIRECTOR LEVENSON: Well, right now we are
23 enforcement agency for five jurisdictions. It
24 encompasses -- Directly, we have three field staff who go
25 out and do inspections, prepare permits, you know, review

1 plans. They coordinate. They have a supervisor. They
2 certainly coordinate with many other sections of the Board
3 to get information. That's about all we can handle,
4 frankly, in terms of staffing and being the enforcement
5 agency. If we do get other jurisdictions who, for
6 whatever reason, do not -- or lose their LEA program
7 status, that will be a definite resource issue for us,
8 mostly in terms of staff.

9 We can recover the costs and have those fees
10 remitted, but it would be a staffing issue.

11 COMMITTEE MEMBER WIGGINS: Well, I would think so.

12 So who could possibly replace the LEA in a
13 jurisdiction that you, you know, taken that
14 responsibility.

15 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: In
16 the past -- Sharon Anderson, again.

17 In past times we have looked at other
18 jurisdictions right around the jurisdiction that decided
19 that they did not want to be a local enforcement agency.
20 And by the way, we've gotten darn close, but have never
21 really taken over the role of the enforcement agency.

22 It's usually been through frustration or a sense
23 of that they didn't want to perform those duties anymore.

24 With San Luis Obispo, from my knowledge, we did
25 look at some of the neighboring jurisdictions, and none of

1 them wanted to become local enforcement agency for San
2 Luis Obispo. So it did have to fall to the Waste
3 Management Board.

4 COMMITTEE MEMBER WIGGINS: So it's basically from
5 a lack of interest.

6 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
7 Yeah. And sometimes things are -- It's tough to step into
8 somebody else's politics, as you know.

9 COMMITTEE MEMBER WIGGINS: Yeah. And so there is
10 a -- could be some cost to the local -- I'm just curious
11 because local cities and counties don't have any money
12 anymore.

13 So there could be some that they have to absorb,
14 some costs.

15 DEPUTY DIRECTOR LEVENSON: That's correct.

16 I think some LEA programs are almost fully funded
17 by fee for service, but there are others that do, as
18 Sharon indicated, have to get some funding from their
19 enterprise or general fund.

20 COMMITTEE MEMBER WIGGINS: Then I have a question.

21 On the list of the attachment on how they are
22 doing, you know, the different jurisdictions. There's 3A,
23 and could you explain what 3A means.

24 DEPUTY DIRECTOR LEVENSON: Gabe, do you want to go
25 ahead and take that?

1 CHAIRPERSON MULÉ: Is that Item 6?

2 DEPUTY DIRECTOR LEVENSON: Yeah.

3 CHAIRPERSON MULÉ: Why don't we just go into Item
4 6 then?

5 COMMITTEE MEMBER WIGGINS: Oh, I'm sorry. Aren't
6 we talking about Item 6?

7 CHAIRPERSON MULÉ: Yeah.

8 DEPUTY DIRECTOR LEVENSON: On the table, there's a
9 legend. I have to put my glasses on and find it.

10 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
11 It's Attachment 5 for everybody who is listening in.

12 DEPUTY DIRECTOR LEVENSON: Down at the bottom of
13 Page 3, you will see 1, 2, 3, 4, 5, 6 -- Those are the six
14 statutory findings that we can make regarding an LEA. So
15 up until the body of the table, if there's a 3A, that's
16 referring to the LEA failed to -- number 3 on that list --
17 the LEA failed to prepare or caused to be prepared
18 permits. In this case, part A is "permit review reports."

19 Do you see that spot on the table?

20 COMMITTEE MEMBER WIGGINS: Well, I see 3A.

21 I don't see what it relates to.

22 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

23 SUPERVISOR ABOUSHANAB: Are you on Page 3?

24 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

25 Which county are you looking at?

1 COMMITTEE MEMBER WIGGINS: Well, for example,
2 Humboldt County.

3 DEPUTY DIRECTOR LEVENSON: I'm looking --

4 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: On
5 the chart, you're looking at Humboldt County. So if you
6 turn 1, 2 more pages, 3A is indicating that they had
7 permit and closure issues, and it shows you which sites.
8 And then on the very third page, it shows the definitions.

9 COMMITTEE MEMBER WIGGINS: Oh, so -- I see.

10 It's numbered at the end here what that means.

11 So 3A could apply to various -- it has applied to
12 various counties.

13 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

14 Yeah. Yeah.

15 COMMITTEE MEMBER WIGGINS: So that's the
16 explanation for that.

17 And then I was just curious.

18 There's 55 LEAs, but there was a training program
19 that 1100 people went to.

20 Who were all these people?

21 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

22 It's repeat customers, so to speak.

23 It's not -- We don't just have one training once a
24 year. We have multiple trainings over the course of a
25 year, and so, typically, what will happen is we will get

1 planning people. Like when we do our CEQA training, we
2 had planning staff attending. We had operators attending.
3 We had not only local enforcement agency staff, we had our
4 own staff attending. Oftentimes, whenever we provide our
5 trainings, we provide it to a very broad audience, and
6 it's a repetitive process.

7 So, in other words, if we were to train -- If we
8 could have all of our trainings in just one spot, we would
9 train 55 jurisdictions to the tune of about 200 staff in
10 the local jurisdictions. But they will attend repeat
11 performances of ours, whether it be Health and
12 Safety-style training, so we count the total clients
13 served, but not each individual. We do have records of
14 what each individual has attended, however.

15 COMMITTEE MEMBER WIGGINS: I was just curious.

16 So it's spectators who have an interest in the
17 issues.

18 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:

19 Yeah.

20 COMMITTEE MEMBER WIGGINS: Okay. Thank you.

21 CHAIRPERSON MULÉ: Okay. Good question.

22 We have a question from Board Member Peace.

23 COMMITTEE MEMBER PEACE: You said that adequate
24 funding for the LEA programs is a hard sell at the local
25 level.

1 And did you say that we do an evaluation of the
2 LEA programs to see if they do have adequate funding? And
3 if they see that they don't, then what happens?

4 LEA PROGRAM ASSISTANCE & EVALUATION SECTION

5 SUPERVISOR ABOUSHANAB: LEAs are required to
6 maintain their certification. So it's kind of like when
7 you get a loan, you apply for it. You have to show the
8 loan company you're doing everything right. You can
9 quit -- If you still pay your loan, you're still in.

10 However, with LEAs, they must maintain their
11 certification based on an annual basis through update of
12 their enforcement plan that they send us.

13 It's quite an extensive document that has the
14 procedures for various duties they perform and their local
15 ordinances and how many staff they have and how many
16 facilities and how much time they spend on each one.

17 And it ties in very nicely to an annual update
18 when they look at any changes in the facility list. So
19 they adjust hours. And if they have staff in and out,
20 then they have to generate a budget report that covers,
21 you know, the amount of overhead and staffing and benefits
22 there for the agencies.

23 And we look at that every year to make sure that
24 the bottom line, indeed, covers the number of facilities
25 and duties and staff that they have, plus, you know,

1 safety, equipment, etc.

2 So every year we look at that balance between what
3 they have and what they used to have and what they project
4 for next year. And we approve it for them.

5 COMMITTEE MEMBER PEACE: If you ever see the
6 funding's not quite accurate or they need this or they
7 need that, you're saying it's hard to get the funding from
8 the city council or from the board of supervisors.

9 Do we ever alert the city council or the board of
10 supervisors to let them know that you might need to give
11 this program some more money when you do your next budget?

12 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON:
13 Well -- and typically that would come out in an
14 evaluation. If we find out that the underlying issue
15 within a jurisdiction is that they are either understaffed
16 or they can't get to all their duties, and we find out
17 that they are either, A, either understaffed or they are
18 being able to perform something, that's when we started
19 nicking away at those sorts of things.

20 And just as a really remote -- Well, it's not a
21 very good one.

22 I was thinking that Inyo County, you know, we
23 required that the board of supervisors fund actually their
24 solid waste program, but that was a different situation.

25 In Madera County, we found that they didn't have a

1 full staff complement -- and that's an eyelash away, if
2 you recall, about in December -- and we were just one step
3 from pulling away their jurisdiction from them, and they
4 were able to fund the position, staff the position, and
5 get their organizational structure intact.

6 DEPUTY DIRECTOR LEVENSON: And in that case, in
7 the case of Madera, we did communicate with the board of
8 supervisors on that particular issue, so we will do it as
9 the situation warrants.

10 Sometimes the problems can be solved simply by
11 talking to the program manager, environmental health
12 director, so it depends.

13 COMMITTEE MEMBER PEACE: Sometimes their hands are
14 tied, and you go to the next level.

15 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: And
16 then we will write a trigger letter for their
17 certification issues. We'll pull a, quote, "trigger."

18 And in one of the attachments we sort of outlined
19 what all the triggers that could be pulled, and
20 certification is definitely one of these areas that a
21 trigger could be pulled, and we have. We have done that
22 in the past. We watch the staffing levels of the
23 jurisdictions and we pay close attention to whenever
24 vacancies exist, and we kind of keep a closer eye on what
25 they're able to do when a vacancy pops up.

1 CHAIRPERSON MULÉ: I would just like to say that
2 trigger process that I know that you're -- It's an ongoing
3 process in terms of staff development. It seems to be
4 working very well in terms of identifying when there is an
5 issue. Like you just said, Sharon, I mean, there are
6 issues. That provides a mechanism for us to do something
7 to act prior to the three-year evaluation cycle -- in
8 between the three-year evaluation cycles.

9 DEPUTY DIRECTOR LEVENSON: Right.

10 And we're trying to increasingly institutionalize
11 that interim triggers process with real objective criteria
12 for when there's a problem.

13 You know, we have a culture at the Board -- and I
14 think it's a good one -- of trying to assist LEAs.

15 At the same time we have to be overseeing them and
16 evaluating them. So we have staff out in the field who
17 have a day-to-day relationship with LEAs. When they see a
18 problem, they are going to bring it to the attention of
19 Sharon or Mark de Bie or myself --

20 CHAIRPERSON MULÉ: Right.

21 DEPUTY DIRECTOR LEVENSON: -- or anybody else.
22 And we're going to be the bad cops who then go ahead and
23 issue a trigger letter and say, you know, you have a
24 problem here. Let's figure out how to solve it.

25 CHAIRPERSON MULÉ: Right. And with the whole idea

1 of better compliance through these prevention efforts.

2 COMMITTEE MEMBER PEACE: Can you tell me -- In
3 November we had an LEA situation, I know I was kind of
4 concerned with, whether it was a stipulated agreement that
5 they gave out, which I didn't think was appropriate. And
6 then they also had -- A permit was up for review and the
7 LEA had shown there had never been any violations, but
8 when we went out to do the pre-permit inspection, we
9 found, like, eight -- There were some pretty significant
10 evaluations.

11 How does that then show up in an LEA evaluation?

12 DEPUTY DIRECTOR LEVENSON: Well, that particular
13 situation, of course, it's always -- In retrospect, you
14 can't say that the LEA failed to site a violation unless
15 you were out there on the same day, which only occurs when
16 we're going to do, usually, an 18-month inspection, or we
17 think that there's a problem and work with the LEA and
18 it's determined that we're going to go out, jointly, and
19 calibrate ourselves.

20 And we did go out with the Sacramento County LEA
21 subsequent to that situation, and, for the most part, we
22 were seeing the same things. There were a few slight
23 differences, and we worked with them to try to come to a
24 common understanding of what's a violation in those
25 particular cases.

1 If we do see that --

2 COMMITTEE MEMBER PEACE: You worked with them
3 before it got to the work plan?

4 DEPUTY DIRECTOR LEVENSON: I'm sorry. What?

5 COMMITTEE MEMBER PEACE: When you talk about these
6 different work plans and stuff, so you worked with them
7 before that would have ever gotten to the work plan?

8 DEPUTY DIRECTOR LEVENSON: If we had identified it
9 in the evaluation process. That particular instance was
10 outside the evaluation process. We did send them a letter
11 indicating our concern, so that's kind of a trigger, if
12 you will. And then met with them subsequently to go
13 through those differences and try to reconcile them.

14 LEA SUPPORT SERVICES BRANCH MANAGER ANDERSON: And
15 just on top of that, this is one of those issues that was
16 a local issue of statewide concern, and it was brought up
17 at all the regional round tables that were just held in
18 the month of January, February.

19 So the LEAs were talking about it. They were
20 trying to figure their way through this as well as
21 bringing us into the conversation and got more
22 clarification on what inspection stands for what.

23 In other words, the 18-month inspection serves as
24 an evaluation of the local enforcement agency, even though
25 they are looking at the facility.

1 So there was a lot of dialogue that way, on that.

2 DEPUTY DIRECTOR LEVENSON: Just for our new board
3 members, we, as program staff, do not conduct formal
4 inspections, for the most part. It's the LEAs who go out
5 on a monthly basis and do the inspections and send in the
6 inspection reports to us.

7 By statute, we do conduct inspections at landfills
8 every 18 months.

9 Upon request, we also will do additional
10 inspections, for example, to do this kind of calibration
11 or joint training, but we used to do more inspections of
12 additional facilities more frequently, but that was
13 changed in statute back in the mid-90s, so...

14 CHAIRPERSON MULÉ: So Howard, do you just want --
15 For the sake of the new board members, if you could just
16 cite and list basically, "monthly inspections include" the
17 LEAs inspect all transfer stations --

18 DEPUTY DIRECTOR LEVENSON: Yeah, any -- All the
19 permitted facilities. All transfer stations, composting
20 facilities, landfills, material recovery facilities,
21 construction and demolition debris facilities.

22 I use the term "facilities" very carefully, here.
23 Those are -- Anything that is a facility is something that
24 requires a permit and therefore, in virtually all
25 instances, a monthly inspection.

1 There are other operations that are of a lesser --
2 a smaller size or a lesser impact, and the Board has,
3 through its regulatory process, created a series of tiers
4 of permits or of regulatory oversight. And in some cases,
5 some of the smaller transfer stations and other things
6 have what's called a notification of the LEA. It's not a
7 permit. They simply let the LEA know that they are in
8 operation. The LEA can go out and inspect them and,
9 indeed, does, but not on a monthly basis.

10 COMMITTEE MEMBER PEACE: And recycling facilities
11 don't require even a notification?

12 DEPUTY DIRECTOR LEVENSON: Not if it's a recycling
13 facility that passes the three-part test.

14 If you want to get into that now, I'm happy to,
15 for Ms. Wiggins, or we can brief you separately, if you
16 wish, on the regulatory framework. It's your pleasure.

17 COMMITTEE MEMBER WIGGINS: Later.

18 COMMITTEE MEMBER PEACE: Before -- Recycling
19 facilities don't require a permit if they meet the
20 three-part test, but whoever goes out to make sure that
21 they are still meeting the three-part test.

22 DEPUTY DIRECTOR LEVENSON: Well, our practice on
23 this, to date, has been that we will -- the LEAs and
24 certainly we will inform the LEAs if we find out any
25 information. But if the LEA or the Waste Board finds out

1 any information indicating that a so-called recycling
2 facility may not be meeting the standards that would
3 exempt it from regulation, then we expect the LEA to go
4 out and take a look.

5 But we do not have -- To date, there's not a
6 master list of all recycling facilities, nor are LEAs
7 required to inspect them on a, you know, certain period,
8 at all. But if there's information, whether it's from
9 news articles or tonnage reports or competitors or citizen
10 complaints or drive-bys or what have you, that a facility
11 is no longer acting as a proper recycling facility, then
12 the LEA would be asked to go out and take a look and
13 determine what its permit status should be.

14 COMMITTEE MEMBER PEACE: Thank you.

15 I know you and your shop have a tough job. You
16 have a delicate job, and you do it well.

17 DEPUTY DIRECTOR LEVENSON: Thank you. We
18 appreciate that.

19 CHAIRPERSON MULÉ: Howard, while those recycling
20 facilities may not require a state permit, they do require
21 local permits; correct?

22 I just want to make sure everybody understands
23 that.

24 DEPUTY DIRECTOR LEVENSON: As a generalization,
25 that's correct. They would require a CUP. In some cases,

1 they could be in a general zoning area, though --

2 CHAIRPERSON MULÉ: Right.

3 DEPUTY DIRECTOR LEVENSON: -- and not necessarily
4 a CUP.

5 CHAIRPERSON MULÉ: Right. But most of the time
6 there are local permit requirements, so I just want to
7 make sure everybody understands.

8 DEPUTY DIRECTOR LEVENSON: And typically, I think
9 it's important to distinguish that those local permits
10 typically are enforced by Code Enforcement or could be
11 Building or Public Works Departments, different
12 departments within the city or county structure, but they
13 are not enforced by the local enforcement agency.

14 CHAIRPERSON MULÉ: Right.

15 DEPUTY DIRECTOR LEVENSON: They only deal with
16 what is determined to be solid waste handling and then the
17 permits associated with those activities.

18 CHAIRPERSON MULÉ: Right. Okay.

19 Any other questions or comments?

20 No.

21 Howard, thank you very much. This was definitely
22 very informative. And I'm sure it's very valuable to all
23 of us in further understanding what it is that P&E staff
24 do.

25 I would just like to tack on my comments from

1 Board Member Peace. I think you folks do a fabulous job
2 and just keep doing what you're doing. And thank you for
3 all the work that you do.

4 DEPUTY DIRECTOR LEVENSON: Well, thank you.

5 If I could just make a couple of closing remarks.

6 I do want to acknowledge our evaluation staff. We
7 got Gabe and Sharon, here, who as you can see, do great
8 work. But we have Brenda Saldana, Virginia Rosales,
9 Barbara Heinsch, and Elaine Novak, who do the bulk of the
10 work.

11 But we've had some transition in that group as
12 well. But I think you can see from Scott and Wes's
13 presentation and Carla and Sharon and Gabe that makes my
14 job a lot easier to work with people like this. That also
15 includes Bernie and Mark's programs, but they weren't up
16 here today.

17 We had two hours. See, I was wrong.

18 And with that, I thank you for your comments and
19 look forward to bringing these issues before you.

20 CHAIRPERSON MULÉ: Thank you.

21 Do we have any further comments?

22 Any public comment?

23 Seeing none, this meeting is adjourned.

24 Thank you all.

25 (Thereupon the California Integrated Waste

1 Management Board, Permitting and Enforcement

2 Committee meeting adjourned at 12:23 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand
3 Reporter of the State of California, do hereby certify:

4 That I am a disinterested person herein; that
5 the foregoing California Integrated Waste Management
6 Board, Permitting and Enforcement Committee meeting was
7 reported in shorthand by me, Kathryn S. Kenyon, a
8 Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said workshop nor in
12 any way interested in the outcome of said workshop.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 20th day of March, 2006.

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23 KATHRYN S. KENYON, CSR

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